The Solicitors' Journal

(ESTABLISHED 1857.)

VOL. LXXIV. **Saturday, June 28, 1930.** No. 26

Current Topics.

The Solicitors Bill.

WE HAVE received from The Law Society a copy of the Solicitors Bill, 1930, together with an explanatory memorandum. Briefly, clause 1 of the Bill makes membership of the Society compulsory on the profession generally, by requiring payment of the first annual subscription as a condition precedent of admittance, and, thereafter, payment of current subscription for renewal of certificate. Clause 2 gives the Society power to set apart and administer a fund to relieve those who have been defrauded by any solicitor, and clause 3 gives the Society power, in concurrence with the Master of the Rolls, to make rules for the professional conduct and discipline of solicitors, and also as to bank and office accounts. As to the last two clauses, we may perhaps refer to our articles of 7th September and 3rd May last (73 SOL. J., 578, and 74 SOL. J., 275), in the latter of which we commented on the New Zealand scheme to establish a guarantee fund, for the authorisation of which an Act was passed last year. We must adhere to our opinion then expressed that a universal compulsory annual audit would be extremely troublesome to the ninety-nine per cent. of honest and solvent firms, and of very doubtful utility in the small number of cases to which it was primarily directed, for the partners of an insolvent and dishonest firm would no doubt be hostile and obstructive. Solicitors handle actual cash much more than directors of companies, who, even with more limited opportunity, have often deceived auditors. The requirement of separate bank accounts for clients' and partnership money is no doubt in theory sound, but, if cheques on each account are drawn by the same persons, it is no precaution against dishonesty. If also there is to be the possibility of a kind of "pounce" audit on a doubtful firm, which certainly would be calculated to damage its credit and stability, some sort of indemnity might be required by the officers of the Society, such as that in s. 20 (3) of the New Zealand Act. The question of compulsory membership of the Society, apart from compulsory subscription to the proposed guarantee fund, is one which will require careful consideration. The present subscription entitles members to the amenities and advantages of the building in Chancery-lane, and a country solicitor, who does not desire to enjoy them, may pertinently ask why he should pay for more than rooms for examinations, etc., and the sittings of the statutory committee. Perhaps the rule of certain clubs which require minimum subscriptions from country members might meet the case. Possibly also some sort of scheme for affiliation of the provincial societies might be worth consideration, a matter for which the Bill does not appear to provide.

The Scope of the Education Act.

THE REMORSELESS philanthropy of modern legislation was recently illustrated at Rugby, where a parent and child were charged with a breach of the Rugby Day Continuation School Order, 1922. The latter had had no application to the boy, when he first became exempt from attending an elementary school, as at the age of fourteen years he was at the Lower School of Lawrence Sheriff, where he had remained for a further eighteen months. The boy had then left to enter employment, and had been served with a notice to attend the day continuation school every Tuesday until he reached the age of sixteen. The parent had then appealed under the Education Act, 1921, s. 77 (4), which provides that, on representation to the Board of Education that a young person is entitled to exemption (by reason that he is or has been under suitable and efficient instruction) an order may be made exempting him from attendance at a day continuation school. The Board had replied that no case for exemption was made out, but the correspondence was not closed, and the defendants contended that no prosecution should have been instituted until a final decision had been given. It was further pointed out that the boy had in fact been getting about five days a week more education than if he had been sent to the day continuation school, so that the mischief aimed at by the Act (viz., the premature absorption of children into industry) did not exist in that particular case. The case for the Warwickshire County Council was that the efficiency of the alternative instruction (which was a ground of exemption under s. 77 (2) of the Act) was a matter to be decided by their sub-committee and not by the parents of the children. The chairman, Colonel W. H. BIDDULPH, stated that both defendants were found guilty, and fines were imposed of 20s. on the parent and 2s. 6d. on the young person. It transpired that the latter would attain the age of sixteen on the 12th July, 1930, and that the summons was the only means of enforcing his attendance at school, otherwise his father might have eked out the whole period in dispute by prolonging the negotiations with the Board of Education.

Executor's Right of Retainer and the Crown's Priority.

A NEAT little problem on the Administration of Estates Act, 1925, came before Mr. Justice CLAUSON in *Re Cockell; Jackson* v. *The Attorney-General* (74 SOL. J. 421), in which his lordship gave judgment against the Crown. The short question for determination was whether an executrix could exercise her right of retainer for debts owing to her by the testator in priority to the Crown's preferential claim for income tax under s. 33 (1) (*a*) of the Bankruptcy Act, 1914, and s. 34 of the Administration of Estates Act, 1925, and the 1st Sched. to the latter Act. His lordship decided that as s. 57 of the Administration of Estates Act, 1925, made the Crown subject to the provisions of that Act, while s. 34 provided that nothing in that Act should affect the right of retainer of a personal representative, the priority of the Crown, as laid down in the 1st Sched. of the Act and in s. 33 (1) (*a*) of the Bankruptcy Act, 1914, had to be harmonised with the express provisions in s. 34 (2). As that sub-section provided that the right of retainer was exercisable in respect

of all the assets of the deceased, his lordship accordingly held that the plaintiff's right of retainer was exercisable against the Crown and in priority to the Crown's preferential claim for property or income tax. Although the full value of the estate in this case was only £1,000, and the amount of the debts retained was also £1,000, nevertheless the principle involved is one of considerable importance to personal representatives, and *Re Cockell* adds one more to the many decisions upholding the right of retainer. This right is very strictly interpreted in favour of personal representatives, and they can exercise it against assets in their possession even when an order has been made for the administration of the estate in bankruptcy (*Re Rhoades; Exp. Rhoades* [1899] 2 Q.B. 347, and *Re Broad; Exp. Official Receiver* (1911), 105 L.T. 719). A personal representative may furthermore obtain an order of the court for the repayment of any money still in the hands of an officer of the court, which has been paid to such officer by the personal representative in ignorance of his right of retainer (*Nunn* v. *Barlow* (1824), 1 Sim & St. 588; 37 E.R. 232; 2 L.J. (o.s.), Ch. 123; *Re Carnac; Exp. Simmonds* (1885), 16 Q.B.D. 308). It is a strange but sad thought that the defeat of the Crown in an important principle affecting income tax law will be hailed with delight by the majority of His Majesty's subjects.

Husbands and the Law.

MARRIED MEN owe a great debt of gratitude to Mr. Justice MCCARDIE for the clarity with which he exposed, in *Gottliffe* v. *Edelston* (*The Times*, 20th June, 1930), the legal injustices and anomalies under which the modern husband suffers as a result of the erosion by equity and statute law on the common law doctrine of the unity of husband and wife. Even to experienced lawyers it may come as a startling revelation that a husband who is living with his wife may be sent to prison if he refuses to pay income tax on his wife's income, even though she refuses to contribute anything to the household expenses. He is liable for every tort that she may commit, and may be made bankrupt therefor, but he has no right, even though she may have a large private fortune, to recoup himself against her for his loss. Moreover, he has no remedy against her by injunction or otherwise if she threatens to commit a tort. And, finally, the husband may be liable for his wife's "necessaries," even though his wife's purse is longer than his own, and even though she refuses to pay a penny towards the expenses of the joint home. Mr. Justice MCCARDIE said that he had carefully considered the intricate provisions of the Married Women's Property Act, 1882, and had found "nothing but confusion, obscurity and inconsistency." In expressing a hope that the day would soon arrive when Parliament would consider the relationship of husband and wife and attempt to remove some of the present injustices governing that relationship, the learned judge said that on that day "the great institution of marriage would gain a new dignity and a new strength through a wise and beneficent amendment of the law."

The Facts and the Judgment.

THE PLAINTIFF in *Gottliffe* v. *Edelston* had met with an accident as a result of the negligent driving of the defendant, whom she subsequently married. The writ was issued on 14th January, 1929, and the parties were married on 21st April, 1929. The marriage in this case did not result in a settlement of all disputes between the parties and a mutual forgiveness of all transgressions for the simple reason that an insurance company was interested in the result of the case. The learned judge decided that the common law did not permit the plaintiff to sue, and that therefore the question arose whether she was entitled to sue by reason of any statute. The Married Women's Property Act, 1882, s. 12, provides that every married woman shall have the same civil remedies and the same remedies and redress by way of criminal proceedings "for the protection and security of her own separate property as if such property belonged to her as a feme sole, but, except as aforesaid, no husband or wife shall be entitled to sue the other for a tort." Section 24 is the definition clause and provides that the word "property" in the Act should include a "thing in action." Mr. Justice MCCARDIE pointed out that if all rights of action in tort were held to be "things in action" and therefore "property" within the meaning of the statute, the remarkable result would ensue that, although no husband could sue his wife for any tort whatsoever, yet the wife could sue the husband for every tortious act he committed against her before marriage." He therefore held that the claim was barred by the prohibitory words of s. 12 of the Act and that the defendant succeeded. It would not, indeed, have been surprising if the decision of the court had gone the other way, for, as Mr. Justice MCCARDIE pointed out in the course of his admirable judgment, "It may be said to-day with even more force than it was said by BLACKSTONE 165 years ago: 'So great a favourite is the female sex of the laws of England.'" ("Blackstone," vol. 1, p. 445.)

Planting Trees adjoining Highways.

THE NEED for circumspection in regard to the above was recently illustrated at Ottery St. Mary, where the Honiton Rural District Council summoned a landowner for planting trees within 15 feet from the centre of the highway, contrary to the Highways Act, 1835, s. 69, and also for failing to remove them within twenty-one days, after notice to do so. The evidence of the complainants' surveyor was that in March, 1929, the defendant had planted twenty-five trees, which were poplars and very lofty, and might develop into an obstruction or encroachment. The defendant's case was that he had planted the trees to strengthen his bank, and had only planted Lombardy poplars, which did not spread like Normandy poplars. He offered to top the trees if they were dangerous, but they had been recommended for use all over England by the Forestry Commission, and should therefore be permitted in a lane, especially as there was little traffic. It was further pointed out that the section extended to any carriage-way or cart-way, so that technically the trees and bushes could be removed from every lane in Devon, without any right of replacement. Mr. F. G. HALSE (the chairman) observed that there might have been a technical offence, but the defendant's desire to beautify the lanes had been sympathetically considered, and the case was dismissed. It is to be noted that the erection of a fence, contrary to the corresponding section of the Highway Act, 1864, s. 51, was held not to be a continuing offence in *Coggins* v. *Bennett* (1877), 2 C.P.D. 568, so that the above proceedings were apparently out of time, through not having been brought within six months.

Taking Photographs on Highways.

THE CIRCUMSTANCES under which photography may be illegal were recently illustrated at Torquay in *Martin* v. *Baines*, in which the defendant was summoned for plying his trade in breach of a street traffic order. The latter had been issued under the Town Police Clauses Act, 1847, s. 21, and the offence alleged was that the defendant had been operating a machine on the pavement in Torbay Road, opposite Abbey crescent, being a place within the schedule to the order. The complainant's case was that, if the defendant could take photographs at that particular spot, any one else might stand there for the same purpose, whereas there were other situations in which the defendant might ply his trade legally. The tradesmen in the Strand, for example, were on corporation property, and they paid a nominal sum of one shilling for the right to station their barrows near the harbour. The defendant's case was that he was not like a cheapjack attracting a crowd, as there was no selling, and no one was stopped, but the customer was handed a card in passing. Miss F. SKIRROW, the chairman, stated that the bench held that there had been a breach of the order, and a fine of 5s. was imposed. It transpired that the defendant's employer had taken premises at a rent of £250 a year, and had spent £1,000 in establishing the business, in which nine persons were employed.

Criminal Law and Practice.

DANGEROUS DOCTRINE.—To a county court judge the Press attributes the expression of an opinion which, we apprehend, will commend itself neither to lawyers nor to prudent motorists, to the effect that when two cars are likely to meet at cross-roads, where the "main-road-preference" rule does not obtain, the slower car must pull up and give way to the faster vehicle.

The important thing, then, in case of accident, would be to prove that one was going faster than the other driver, so as to be able to claim that he ought to have given way. This adds an encouragement to fast driving at doubtful cross-roads, which is by no means in the interests of public safety. It also raises the difficulty of proving who was actually going faster, besides casting upon drivers the duty of comparing speeds under conditions which make accurate comparison almost impossible.

Surely the safe rule, and the rule that the courts would be generally inclined to support, is that both drivers should be on their guard, neither should claim precedence, and each should be ready to give way. This would make collisions improbable, and, if an occasional collision did take place through two cars giving way to each other and then both going on again, the impact would be so slight, having regard to the low speed at which the cars would meet, that little or no damage would result.

SEX EQUALITY.—A metropolitan magistrate, in sentencing a young woman to a month's imprisonment for stealing from her employer, said that he had lots of boys before him who robbed their employers; it was a mean, disgraceful kind of theft, and he generally sent such boys to prison. As the defendant had been bound over last year, he saw no reason for making any difference in her case just because she was a girl.

The young woman was in fact twenty-three years of age, so there is nothing harsh in the learned magistrate's sentence. As to differentiation between men and women, boys and girls, we see no reason at all for it, in theory, now that they mix freely on terms of equality to an increasing extent. Sentiment, however, which plays a proper, if undefinable, part, even in the administration of justice, would prevent, in many cases, severity to a woman which might easily pass unchallenged in the case of a man.

As to sending women to prison, that depends largely upon the view taken of prison itself. If imprisonment be simply a retributive measure, then no doubt women will be accorded some leniency as compared with men. If, however, prison be a place of reforming influence, as indeed it may be under present conditions, then there would seem to be every reason for subjecting women, equally with men, to treatment there. One thing is at all events beyond dispute, women are given, and properly given, certain ameliorations of their lot which are withheld from men. We believe all women prisoners get a mattress, a washstand, and even a looking-glass, and there is undoubtedly a disposition to make allowance for such physical disabilities as attach to their sex.

A SOLICITOR'S FAILURE.

The first meeting of creditors was held on Tuesday, at Bankruptcy Buildings, under the failure of Mr. H. S. K. Gregson, described as a solicitor, of 49, St. James' Street, Westminster, S.W. The receiving order was made on 11th June on the debtor's petition, and an order of adjudication was made the same day.

Mr. E. Parke, Official Receiver, reported that proofs of debt to the amount of £40,378 had been tendered. The debtor was unable to attend, and a medical certificate had been sent to the effect that he was seriously ill and would not be able to submit himself to the court for a considerable period.

A resolution was passed for Mr. William Eric Fisher, C.A., of 12, Old Square, Lincoln's Inn, W.X., to administer the estate as trustee, his fidelity bond being recommended to be for £10,000.

Opium in Bulk.

THE recent announcement by Mr. HENDERSON to the League Council at Geneva that a vessel had left Bushire for the Far East with the "appalling quantity" of 250,000 lbs. of opium on board is astounding even to those familiar with the widespread violation of the international regulations against opium smuggling, and affords some indication of the magnitude of this illicit traffic. In a lesser degree, on many vessels trading out East, some of the ships' crews regard a little speculative smuggling of opium as an almost legitimate means of augmenting a comparatively small wage, and many and humorous are the accounts of clashes with vigilant customs officers. The long and varied experience of these officers seems to have invested them with an almost uncanny power of smelling the presence of opium. On one occasion suspicion amounting almost to certitude was directed to the Chinese carpenter's cabin, and a careful search resulted in the discovery of half a dozen balls of opium concealed underneath the bunk. While the happy customs officer (for he would get a percentage of his "find") bent low and lifted the balls out and placed them, without looking round, one by one on to a near-by box, the wily Chinaman calmly picked each one up and dropped it through the port hole into the water. Picture the chagrined but powerless officer as, with the customary expressionless face and innocent air, the Chinaman uttered the time-honoured "Me no savvy." Another trick also by a Chinaman, and almost successful, was to put the balls of opium into a bucket of dirty water standing just outside the cabin door. This unexpected hiding place was accidentally discovered by a clumsy customs officer knocking the bucket over. European ship's officers have occasionally been known to smuggle opium, and that fact has more than once been made use of by an incensed native member of the crew by way of revenge for a real or imaginary grievance, by concealing opium in an officer's cabin as the ship enters port, and taking steps to ensure that the customs officer shall hear of its presence. The ship's officer may or may not be able successfully to clear himself, but in any event he has a nasty quarter of an hour, and is afterwards an object of suspicion. The suspicion is not always unmerited, however, for one junior officer, the story goes, was in the habit of treating his body with a brown fluid and making his way ashore disguised as a native and carrying his contraband hidden beneath his *lungi*, or loin cloth. Many, indeed, are the ways in which small quantities of opium are smuggled. In the case of ships entering Rangoon at night, for example, the *modus operandi* used to be, and may still be, for accomplices in *sampans* to dash out to the ship as she steamed up-river, collect a parcel dropped over the stern and then disappear into the darkness. Smuggling on a larger scale was sometimes exposed by the accidental breaking of a case during loading or discharging. "Rubber tyres" or some equally innocent legend was inscribed on the case and in the shipping documents. However daring, however ambitious, may have been some of the smuggling undertakings in the past, they pale into insignificance beside the quarter of a million pounds reported by Mr. HENDERSON. No action, he said, can be taken against the ship until she reaches the territorial waters of some power which is a party to the international regulations against the traffic in narcotic drugs. Assuming the intention to be to smuggle that appalling cargo into far eastern countries, we are forced to appreciate the enormity of the demand and the extensiveness and efficiency of a secret organisation which can supply and distribute such a tremendous amount of this injurious drug, and to realise that there still remains much to be done in order successfully to combat the ubiquitous distribution of the drug which, if persistently indulged in, ultimately undermines and ruins the constitution and wrecks the mind.

Parish Property or Union Property.

THE Court of Appeal had to decide recently (see *City of London Corporation* v. *London County Council*, 74 SOL. J. 421), whether a certain sum of money, invested in war stock, belonged to the parish or to the union.

The amount involved was £177,316, the proceeds of the sale of an institution at Homerton, invested by the guardians of the City of London Union in 5 per cent. War Loan Stock. It was stated that the answer to the question meant a difference of 5d. in the £ in the rates.

To understand how this sum came into existence, it is necessary to go into the history of the matter, which goes back a number of years.

In 1869 the East London Union, in which the Homerton Institution was situated, was dissolved by order of the Poor Law Board, and the parishes comprised in it were added to the City of London Union. Two years later, by the authority of an order made by the Board under s. 3 of the Union and Parish Property Act, 1835, the guardians of the City of London Union acquired the Homerton institution from the former guardians, and the proceeds of the sale were invested and the securities held in trust for the benefit of the East London parishes. In 1921, under orders made by the Minister of Health, the City of London guardians were authorised to sell the institution and were directed to invest the proceeds and stand possessed of the securities, on trust to pay the interest into the common fund of the union.

It is to be observed that under the orders of the Minister of Health, who authorised the guardians to sell the institution, they were to invest the proceeds and hold the securities on trust to pay the interest into the common fund of the union.

Then came the Local Government Act of 1929, which transferred the property and liabilities of the guardians of the City of London Union to the London County Council, on the appointed day.

At the date of this transfer of their functions to the London County Council there remained in the hands of the guardians this large sum in War Stock, and the question was whether it was property held by the guardians for the purposes of their functions in the relief of the poor, or whether it was parish property.

If it was the former, it was transferred to the London County Council by virtue of s. 113 of the Local Government Act, 1929; if the latter, it was transferred to the City of London Corporation by virtue of s. 115 of the same Act.

By s. 113, sub-s. (1) of the Act of 1929: "Subject to the provisions of this part of this Act with respect to property and liabilities for which special provision is made, any property and liabilities held or incurred by or on behalf of a poor law authority, whose area is wholly comprised within one county or county borough, shall on the appointed day be transferred to, and vest in, the council of the county or county borough."

Special provision is made by s. 115 of the Act, with regard to parish property. The effect of that section is that any parish property which, at the appointed day, is vested in a board of guardians, including the proceeds of sale of parish property and any securities in which those proceeds have been invested, shall be transferred to a borough council, if the parish is comprised in a county borough, or to an urban district council if the parish is in an urban district. The parish property referred to in the section would be transferred in this case, not to the London County Council, but to the City of London Corporation, because sub-s. (7) of s. 115 states that in the application of the section to London, references to an urban district shall be construed as references to the City of London, and references to an urban district council shall be construed as references to the common council of the City of London.

Sub-section (6) of s. 115 defines "parish property" as meaning "any property the rents and profits of which are applicable, or, if the property were let, would be applicable to the general benefit of one or more parishes, or the ratepayers, parishioners or inhabitants thereof."

"But does not include . . . Property acquired by a board of guardians for the purposes of their functions in the relief of the poor."

Was the war stock in question property acquired by the guardians of the City of London Union for the purposes of their functions in the relief of the poor?

The Court of Appeal decided that it was, and therefore, on the appointed day, namely, 1st April, 1930, the stock in question was transferred to and vested in the London County Council by virtue of s. 113 of the Local Government Act, 1929.

The court refused to accede to a contention made on behalf of the City of London Corporation that the transfer and vesting should be subject to a condition that the income of the stock should be credited to the City Corporation in computing the amount of their contributions to the county fund.

Thus, the London County Council won on all points, and those ratepayers who live in Hampstead, Kensington, or elsewhere in the area of the London County Council and have a place of business in the city, may derive some comfort from the fact that what they lose as ratepayers in the city, they may gain where they live.

The Scottish De-rating Decisions.

(*Continued from p.* 393.)

Agricultural hereditaments also receive a substantial benefit under the De-rating Acts. The definition of these hereditaments is not in identical terms, both for England and Scotland,(46) but it is substantially the same. Comparatively few questions have come up for decision, as the meaning of the term "agricultural hereditaments," which has occurred in many statutes, is by this time tolerably clear. A claim for de-rating was made by the owners of a piggery, where the breeding of pigs was carried on; the pigs were exercised and ate grasses and roots growing on the land. Such use of the land was held to be pastoral, and as poultry farming is expressly included there is no reason to suppose that the legislature had intended to exclude the pig.(47) The court further expressed the view that the words used were intended to cover the use of the land either for the purposes of grazing crop or for the purposes of rearing stock. An interesting question arose in connexion with the comparatively new business of fox farming. A strong claim was made on behalf of this novel development of the land. The silver foxes were kept in pens, but owing to their timidity they could not be allowed outside. They did not feed off anything on the ground, but were carnivorous. At the same time a large area of ground was required, as the best results were obtained by their complete seclusion. The pelts of the silver foxes were sold for human clothing. The court held that this use of the land could not be held to be pastoral or agricultural.(48) A subsidiary question arose concerning a golf course, where the club, in addition to the rent for the course, paid a separate rent for the grazing rights. De-rating was claimed in respect of the grazing rent, but was refused on the ground that this could not be held to be use for agricultural or pastoral purposes *only*, as the definition of the Act requires.(49) The dwelling-house occupied by the partner of a firm of nursery gardeners within the precincts of the gardens was also held not to be such a necessary adjunct of the business as entitled it to be considered as an agricultural hereditament.(50)

(46) 1928 Act, s. 2 and s. 9 (11).
(47) *Assessor for Renfrew* [1930] S.L.T. 164.
(48) *Assessor for Ross and Cromarty* [1930] S.L.T. 214.
(49) *Countess of Cromartie* [1930] S.L.T. 244.
(50) *Findlay Brothers* [1930] S.L.T. 278.

Minor questions arose as to the inclusion of premises as freight transport hereditaments. These hereditaments receive a deduction of 75 per cent. from their annual value and they include, *inter alia*, a hereditament occupied and used wholly or partly for dock purposes as part of a dock undertaking.(51) Questions arose concerning a customs house within the curtilage of the docks, premises outside the docks let to a shipping company and used as stores. These were held not to be part of the dock undertaking. The same decision applied *à fortiori* to sheds owned by a shipping company outside the dock premises for the purpose of housing cattle.(52)

Enough has been said of the decisions of the court to indicate the variety of questions which have come before them. It was, of course, unavoidable that in an Act of such far-reaching consequences difficulties should arise, but from the experiences of the court in Scotland in interpreting the Act it is doubtful whether the legislature has adopted the best means of defining the premises to be benefited. The intention of the Act was undoubtedly to benefit productive industry, and particularly industry which was most subjected to foreign competition. The method adopted is that factories and workshops, as defined in the Factory Acts under certain exceptions, are all benefited. But if the definition contained in these Acts, which were intended to regulate the hours of working and safeguard the interests of the workers, is examined carefully, it will be seen that it is wide enough to cover almost every premises where any manual work is done. Here again, as so often is the case, the legislature has been too wide in the inclusion and too narrow in the exclusion. As the cases have come before the court in Scotland it has been obvious that the definition covers premises which the legislature never even in its wildest moments intended to benefit. It was not an ideal method to take the definition from the Factory Acts, and it would have been more satisfactory, although probably more difficult, had a new definition been attempted and premises scheduled to the Act. In fact it is tolerably clear that already the financial estimates of the cost of de-rating to the Treasury will be greatly exceeded. But this, of course, is a consideration not appropriate to the court. On the one hand, it is clear that certain premises could not in any way be said to be part of productive industry; but, on the other hand, it is the terms of the Act which must be construed, and the court found their task a very difficult one.

The decisions of the Scottish Valuation Appeal Court are final and not subject to review, whereas it is possible to take an appeal in England to the Court of Appeal and thence to the House of Lords. The Scottish judges themselves have been divided in opinion, and, as has already been pointed out, the English courts have taken a different view in some of the cases. It will be a peculiar situation if the Act, which applies both to England and Scotland, is to receive a different interpretation in one country from the other. Uniformity is desirable in the interests of the individual ratepayers concerned, and some steps may have to be taken to remedy some of the anomalies.

(51) 1928 Act, s. 5 (1) (*c*).
(52) *Clyde Navigation Trustees* and *North of Scotland, Orkney and Shetland Steam Navigation* Co. [1930] S.L.T. 284.

£25 BAIL "LUDICROUS."

When two men accused of conspiring to cheat and defraud failed to appear at Devon Assizes on Monday it was stated that when they were committed for trial they were allowed bail in their own recognisances of £25 each.

The judge described the bail as ludicrous.

There should have been very substantial bail secured on the responsibility of some independent person, he said. He hoped that there would be no repetition of what had been done in this case which seemed to be calculated to defeat the ends of justice. It absolutely tempted persons, if they were dishonestly minded, to seek to escape.

A third man answered his bail and the judge renewed it, as he had acted honourably.

The case was adjourned to the next assizes.

Company Law and Practice.

XXXV.

A CORRESPONDENT has recently raised an interesting question with regard to the minutes of meetings of companies: under s. 121, he says, members of a company have now a statutory right to inspect and have copies of the minutes of proceedings of any general meeting of the company, but what is the position where these minutes have not been signed? It not infrequently occurs that the minutes of one annual meeting are not signed by the chairman until the next annual meeting a year or so later; where this is the case, asks my correspondent, have the shareholders, during the year that elapses between the meeting and the signing of the minutes, to be satisfied with an unsigned "and consequently unauthorised record" of proceedings, if they exercise their statutory rights under s. 121? To deal with this question seems to require some examination of the statutory provisions dealing with minutes.

Section 120 (1) requires every company to cause minutes of all proceedings of general meetings to be entered in books kept for that purpose; and s. 120 (2) provides that any such minute, if purporting to be signed by the chairman of the meeting at which the proceedings were had, or by the chairman of the next succeeding meeting, shall be evidence of the proceedings.

Pausing there, it seems absolutely clear that signature of these minutes at the next succeeding meeting satisfies the sub-section, if only for the reason that until the meeting is held it is impossible to say who the chairman will be. Thus, in the case of a company which has no occasion to hold an extraordinary general meeting in any particular year, it must be a compliance with the section for the signature to be appended a year later. It is not infrequently the practice to put the minutes of the last meeting to the members for approval before the chairman signs them, but under the statute there is no obligation to do this, the chairman's signature being the only approval referred to in the sub-section; nowadays this is often appended at the first board meeting following the general meeting the subject of the minutes.

There is a clear distinction to be kept in mind between the drawing up of minutes and their signature: in *Toms* v. *Cinema Trust Co. Limited* (1915), W.N. 29, where the company's articles required disclosure of a director's interest to be entered up in the minutes of directors' meetings, SCRUTTON, J., as he then was, held that minutes must be made within a reasonable time, where no time for their making was specified, that the entry, not having been made for over a year after the meeting, was not made within a reasonable time, and that, therefore, the article had not been complied with. It seems illogical to say that the signature of the chairman, which is in the nature of approval of the minutes, may, nevertheless, be affixed nearly fifteen months after the meeting, but, as indicated above, it must follow from the wording of s. 120 (see also s. 112 (1)).

The minutes of a meeting are only *prima facie* evidence of what occurred thereat, and they may, in a proper case, be displaced by other evidence (*re Indian Zoedone Co.*, 26 Ch. D. 70): while a resolution unrecorded in the minutes may be proved by evidence *aliunde* (*re Fireproof Doors* [1916] 2 Ch. 142); so it will be seen that members of a company are not necessarily bound by a properly signed minute if they are in a position to bring evidence displacing or supplementing the minutes, or any part thereof. This section, merely saying that the minutes shall be evidence, differs from s. 117 (3), which makes a declaration of the chairman that an extraordinary or special resolution is carried, on a show of hands, conclusive evidence of the fact. Even this, however, does not mean that under every set of circumstances such a declaration must stand, for, no doubt, if fraud could be established, other evidence would be received, while if the declaration is on the face of it bad, as, for instance, where it appears that there was not a

sufficient majority, it cannot stand: *re Caratal (New) Mines* [1902] 2 Ch. 498.

To turn now to the stumbling block in the present case, s. 121, we may say that its scheme is to compel the keeping of the minute book of general meetings at the registered office of the company, and to insist on its being open daily during business hours to the inspection of any member, free of charge. Members are also to be entitled to have copies furnished to them within seven days after request at a charge not exceeding sixpence per 100 words. Fines may be imposed for default by the company and its officers, and the court is given power to compel an immediate inspection, or to direct the sending of copies; an application in that behalf may be made by any member who fails to get the inspection he desires, or is not furnished with copies in accordance with the section; the application is to be made by summons (O. 53 B, r. 8 (*b*)).

Now, is it possible to say that s. 121 is referring only to minutes which are signed in accordance with s. 120 (2)? Logically it does not seem to be: it is true to say that from the practical point of view the value of this section may be somewhat diminished if the entries are liable to be altered subsequently to an inspection made by a member, but in view of the plain wording this argument can be of no weight. Section 121 (1) only says that the minute books are to be open to inspection, while s. 120 (1) provides for the keeping of those minute books; s. 121 (2) confers a right to "a copy of any such minutes"; but nowhere in the Act is there any obligation on any person to sign the minutes, or verify them in any way. Section 120 (2) and (3) indicate certain results which follow if minutes are duly kept and purport to be signed as there set out, but there seems to be no justification for saying that s. 121 confers any right upon the members of the company greater than the right to see the company's records so far as they go; there is no suggestion in the section that the members are entitled to have those records signed so as to make them evidence under s. 120 (2), or, indeed, in any other way authorised or certified.

(*To be continued.*)

An Extended Obligation.

Two cases of considerable importance to shipowners, and dealing with seamen's right to wages after their vessels had been wrecked, came before the Court of Appeal on the 2nd May. Section 1 (1) of the Merchant Shipping (International Labour Conventions) Act, 1925, provides that: "Where by reason of the wreck or loss of a ship on which a seaman is employed his service terminates before the date contemplated in the agreement, he shall . . . be entitled, in respect of each day on which he is unemployed during a period of two months from the date of the termination of the service, to receive wages at the rate to which he was entitled at that date." The short point for the consideration of the Court of Appeal was whether the terms of the above section meant that if the wreck or loss of the ship occurred less than two months before the seaman's service agreement would in the ordinary course have expired, he would still be entitled to recover wages for the full two months from the date of the wreck, or whether the shipowner's liability would cease at the date on which the agreement would have ended had the vessel not been lost. In the court below the President held that the statute conferred a *prima facie* right on a seaman to receive wages for each day on which he was involuntarily unemployed during a period of two months from the date on which his service was terminated by reason of the wreck or loss, irrespective of the date on which, had the ship not been wrecked or lost, his service would in the ordinary course have terminated. The Court of Appeal, by a majority, have now upheld that decision. Lord Justice SLESSER, dissenting, said that in his view the section imposed on the employers no more than the obligation to indemnify the seaman for any loss which he might suffer, subject to a limitation of two months, in consequence of the wreck. The effect of the section was, he thought, that the seamen should be entitled to their wages from the date of the wreck down to the date on which their employment would have terminated if there had been no wreck. There can be no doubt that his lordship's interpretation expresses a more equitable view, and one which commends itself unrestrictedly to sound common sense. It seems difficult, indeed, to assume that the legislature intended to saddle the shipowner with a liability for a longer period than he had himself contracted for. It seems peculiarly unjust and excessively hard that to the loss of his ship the owner must add wages of a crew for a period over which, had his vessel arrived safely in port, he would have been under no liability. Imagine the *furore* that would be created if a business house were told that despite their monthly agreement with their employees they would have to pay them three months' salary if they were thrown out of employment by reason of the premises being burnt down. It would be adding insult to injury. Legislative interference in personal contracts ought not to be encouraged. In the present case, however, a strict construction of the actual words of the section gives no alternative but to pay for the two months. The position is obviously one in which, as so often seems the case, the addition of a few words in the section would remove any ambiguity. For example, if our view were accepted, the latter part of the section might read: ". . . be entitled, in respect of each day on which he is unemployed, until the date contemplated in the agreement, or, during a period of two months from the date of the termination of the service, whichever is the shorter, to receive wages at the rate to which he was entitled at that date." If the contrary view were taken, the section might be rendered clearer by the inclusion of the words "and notwithstanding the date contemplated in the agreement" before the words "to receive wages at the rate to which he was entitled at that date."

A Conveyancer's Diary.

Some Points on Enforcing Restrictive Covenants.

There are a few points with regard to restrictive covenants with which I have been asked by a correspondent to deal.

The first question is with regard to the effect of a covenant by a purchaser to observe restrictive covenants which have been imposed on the vendor in the conveyance to the latter. Thus A is the owner of land which is subject to restrictive covenants and sells part of it to B, who in his conveyance covenants with A to observe the covenants. How far can A enforce the covenants against B?

I think that *Reckitt* v. *Cody* [1920] 2 Ch. 452, affords an answer to that question.

The facts in that case were that by a deed dated in 1911 a parcel of freehold land forming part of a larger estate was conveyed to the plaintiff as purchaser, and he covenanted with his vendor to observe and perform the stipulations in relation to the assured hereditaments contained in the schedule to the deed. Some of the stipulations were restrictive of the user of the land. By a conveyance dated in 1919 the plaintiff conveyed to the defendant a piece of land part of that conveyed by the deed of 1911, the conveyance being expressed to be subject to the restrictive covenants and stipulations contained in the deed of 1911 so far as the same were subsisting and capable of taking effect as regarded the hereditaments thereby conveyed and the defendant for herself her heirs and assigns (with intent to bind the hereditaments thereby conveyed and all persons in whom the same should for the time being be vested but not so as to be personally liable under the covenant after she had parted with the

same) covenanted with the plaintiff his heirs and assigns that she, her heirs and assigns would thenceforth observe and perform the said restrictive covenants so far as aforesaid.

The defendant having committed a breach of the restrictive covenants the plaintiff brought the action for an injunction to restrain the continuance of the breach.

Eve, J., held that the covenant by the defendant in the deed of 1919 was a covenant of indemnity only and that, in the absence of any proceedings taken or threatened against the plaintiff on the part of the original vendor to enforce the restrictive covenants in the deed of 1911, the plaintiff had no cause of action against the defendant.

It seems rather curious that there should be any doubt upon a point which must have been raised a great many times and might have been expected to have been well settled long before 1920.

There were two comparatively recent authorities relied on for the decision. One of such cases is *Re Poole and Clarke's Contract* [1904] 2 Ch. 173.

That case came before the court upon a vendor and purchaser summons to decide what covenant a vendor was entitled to have inserted in his conveyance where the purchaser had agreed to purchase subject to restrictive covenants contained in the conveyance under which the vendor acquired the property. It was held by the Court of Appeal that all that the vendor could require was a covenant of indemnity, and that the purchaser was entitled to preface his covenant with words to the effect " with the object and intention of affording to the vendor a full and sufficient indemnity in respect thereof, but not further or otherwise " and it is clear from the judgments that the prefatory words only expressed what would in their absence be implied. That case is therefore an authority for saying that a covenant to observe restrictive covenants imposed by an earlier deed is a covenant of indemnity only although not so expressed.

Another case is *Harris* v. *Boots Cash Chemists* (*Southern*) [1904] 2 Ch. 576, where the question arose upon the construction of a covenant in the usual form in an assignment of a lease to observe and perform the covenants and conditions contained in the lease and to indemnify the assignor therefrom, and it was held by Warrington, J., that the covenant was one of indemnity only.

To return to *Reckitt* v. *Cody*, it should be noticed that although the covenant in question was held to be a covenant of indemnity only, it seems that evidence would have been admissible to show that the surrounding circumstances were such as to import an intention that the covenants should, in effect, be regarded as fresh covenants which should enure for the benefit of the adjoining land of the vendor.

In the course of his udgment the learned judge said: " . . . in the absence of any reference to the other property of the vendor or of any evidence that the purchaser had knowledge of the fact that he owned any other property in the immediate vicinity of the land conveyed to her, I do not think the possible or even probable desire of the vendor to protect his other land justifies me in imposing on this covenant a wider construction than it would otherwise bear " ; and again, " In my opinion I am bound by authority to hold that in the absence of special circumstances such a covenant as this is a covenant to indemnify and nothing more."

The difficult problem which suggests itself here is, what evidence would be sufficient to extend the scope of the covenant so as to render it enforceable for the benefit of the adjoining land of the vendor? What would be regarded as "special circumstances," the presence of which would have that result?

Of course, if there were anything in the deed itself referring to the other property of the vendor in connexion with the covenant, that would have an important bearing on the question, but where there is nothing whatever in the deed to alter or extend the operation of the covenant it is most difficult to say what " special circumstances " proved to exist though not referred to in the deed would suffice for the purpose. It seems to me that the " circumstances " would have to be such as to establish something like a building scheme or such as made it apparent from the nature of the case that the covenant was intended to be annexed to the adjoining land of the vendor. Perhaps some day a definite rule will be laid down on the subject. In the meantime, it appears safe to say that, in the absence of anything to the contrary in the deed itself or something in the nature of a building scheme, such covenants are covenants of indemnity only, and no action will lie on them by the covenan ee unless some proceedings are brought or threatened against him under the original covenants.

The next point is whether a covenantee can enforce restrictive covenants after having parted with the land for the protection of which the covenants were entered into.

In *Formby* v. *Barker* [1903] 2 Ch. 539, it was held that where a purchaser had entered into restrictive covenants with the vendor as to the user of the land and the vendor had at the date of the conveyance no adjoining property, although he had had other property which had been subjected to similar covenants, the covenants were personal to the vendor and could not be enforced by his executors as assigns of the covenants, and that the vendor himself could not have enforced the covenants against an assign of the covenantor.

London County Council v. *Allen* [1914] 3 K.B. 642, was a somewhat similar case, but there the covenantees never had any land at all for the protection of which the covenant might have been entered into.

In those cases the covenantees had no land at the date of the deed containing the covenant which could be protected by it. The question with which I am dealing, is regarding the position where at the date of the covenant the vendor had land adjoining that conveyed but had since parted with it

I think that the case directly in point is *Chambers* v. *Randall* [1923] 1 Ch. 149.

In that case one Bullock was the owner of a row of houses and sold them to different purchasers, imposing restrictive covenants. The action was brought by the executors of Bullock, who, in another capacity, were the owners of some of the houses, against the purchaser of others of the houses to enforce the restrictive covenants.

It was held by Sargant, J., that as Bullock had parted with all the houses for the protection of which the covenants were entered into, he could not have sued upon such covenants, and, therefore, of course, his executors could not sue. That case is instructive upon another point, namely, as to when the benefit of a restrictive covenant will run in equity with the land for the protection of which it was entered into. It was held that although the defendant's covenants were entered into for the protection of the houses afterwards conveyed to the plaintiffs, the covenants were not so annexed to the plaintiffs' houses as to enable them to enforce the covenants. There are one or two other points which I intended to mention, but they must be left for another week.

Landlord and Tenant Notebook.

Distress on Goods of a Company in Liquidation.

The Companies Act, 1929, repeats the provisions of older enactments by which a landlord is prevented from distraining on the property of a limited company in liquidation unless he has leave of the court. This is the joint effect of s. 174 (1), which avoids a distress levied after winding-up has commenced, and s. 258, which impliedly provides for leave. The effect of the latter is to give the court a discretion; and, as in all cases in which discretion has been conferred, much litigation

has been necessary in order to settle the principles on which it is to be exercised.

At one time it was thought that, liquidation being analogous to bankruptcy, the landlord of a company in liquidation ought to be in a better position than other creditors, and the fact that legislation has given landlords preferential rights against execution creditors was also in point (see "Arrears of Rent on Execution," 73 SOL. J. 811). But the courts have refused to accede to this proposition, and in *Re Coal Consumers' Association* (1876), 4 Ch. D. 625, followed the principle that the first consideration must be: can the landlord prove against the company in the liquidation? Thus, it is immaterial whether the rent claimed relates to a period before the date of the winding-up. In *Re Bridgewater Engineering Co.* (1879), 12 Ch. D. 181, the landlords, who at the suggestion or request of the director had held their hands when about to distrain before the liquidation, moved for an order that the proceeds of the subsequent sale be paid over to them. But the court followed the last-mentioned case and could find no ground for treating the lessors as secured creditors.

The same question was the *ratio decidendi* in *Thomas* v. *Patent Lionite Co.* (1881), 17 Ch. D. 250, C.A., in which the facts were somewhat peculiar. Distress had been levied after the resolution for winding-up, but before any liquidator had been appointed; the voluntary liquidation had then been superseded by an order for compulsory winding-up. On these two grounds the then Vice-Chancellor ruled that the statutory restriction did not apply at all. The Court of Appeal reversed the decision, and Jessel, M.R., after pointing out that voluntary liquidation dates from the day of the resolution (see now the Companies Act, 1929, s. 227), reaffirmed the principle that leave will not be granted when the landlord can prove.

As regards rent accruing due during liquidation, the principle that guides the courts is that leave may be granted when the liquidator has been in "beneficial occupation." This was laid down as long ago as 1864, in *Re Exhall Mining Co.*, 4 D.J. & S. 377, and was approved by a strong Court of Appeal in *Re Lancashire Cotton Spinning Co.* v. *Ex parte Carnelley* (1887), 35 Ch. D. 656, C.A. The landlords were such by virtue of an attornment clause in a mortgage. After an order for compulsory winding-up the liquidator remained in possession of the works, keeping the plant ready for work in the hope of improvement in the market, but not actually working it. Cotton, L.J., said the landlord must show either that the liquidator was inequitable in asking for avoidance or that rent was in the circumstances part of the expenses of winding-up. Lindley, L.J., emphasised the point that the onus was on the applicant to show one or the other. Bowen, L.J., said the question was: had anything happened since the winding-up to make it inequitable for the liquidator to shelter behind the statutory restrictions. And it was held that this was not a case of "beneficial occupation." The court arrived at the same conclusion in the *Bridgewater Engineering Co. Case*, mentioned above, in which there was also an application in respect of rent accrued due since the liquidation, the liquidator having occupied for the purpose of the sale; as he was not in sole occupation, the position was described as "mixed accommodation."

When a levy has been made, but no sale completed, before the date of the liquidation the onus referred to by Lindley, L.J., in the *Lancashire Cotton Spinning Co. Case*, mentioned above, is on the company; the liquidator must show that it would be inequitable to allow the landlord to proceed. This principle was enunciated by Turner, L.J., in *Re Great Ship Co.* (1864), 4 D. J. & S. 69, and more recently applied by the Court of Appeal, in *Venner's Electrical Cooking & Heating Appliances Ltd.* v. *Thorpe* [1915] 2 Ch. 404, C.A., in which the distress was for forehand rent and disastrous to the hopes of other creditors.

The above does not apply to cases in which the company is not the tenant, when the landlord will be at liberty to distrain—subject, of course, to the Law of Distress Amendment Act, 1908.

Our County Court Letter.

LIABILITY FOR CLEARANCE OF SNOW.

THE question of payment for services rendered in an emergency was recently considered at Aberayron County Court in the test case of *James* v. *Aberayron Rural District Council*. In February, 1929, an exceptionally heavy snowstorm had blocked the road from Tyglyn Aeron through Cilcennin to the Groesffordd, and the plaintiff and others were asked by the roadman to clear the snow, which had drifted in places to a depth of 6 to 9 feet. A motor lorry had been stranded from the Monday to the Friday, and the inhabitants of a large area would have been deprived of the necessities of life, if it had not been for the efforts of the plaintiff and others similarly engaged. The plaintiff's case was that (1) the previous conduct of the defendants implied that the roadman had authority to pledge their credit for such work; (2) the roadman was an agent of necessity for the defendants. The roadman's evidence was that (*a*) during a similar snowstorm, twenty-two years ago, he had engaged men with the consent of the local councillor, and they had been duly paid; (*b*) owing to the difficulty of communicating with the surveyor he had engaged fifteen or sixteen men on the occasion in 1929, as he thought it was his duty to clear the road, and the local councillor had concurred. The defence was that the roadman had no authority to engage the men, and before doing so he should have communicated with the surveyor, who could have cleared the road with his own men. His Honour Judge Frank Davies held that it was unreasonable for a roadman to engage a party of men without consulting the surveyor, and the roadman had merely endeavoured to cover himself by consulting the local councillor. The plaintiff and the other men also knew that no authority could be exercised by the roadman, who should have obtained proper instructions. Judgment was therefore given for the defendants, with costs.

The defendants would have been immune in any event from liability to the public, as appears from *Saunders* v. *The Holborn District Board of Works* [1895] 1 Q.B. 64. The plaintiff had been injured by a fall, alleged to have been due to the neglect of the defendants to remove snow, in breach of their duty under the Public Health (London) Act, 1891, s. 29. The county court judge at Clerkenwell non-suited the plaintiff, and this decision was upheld by the Divisional Court. Mr. Justice Mathew pointed out that the penalty of £20 was the only liability imposed by the Act, and Mr. Justice Charles agreed that there was no right of action for non-feasance.

The rights of the public receive better protection in Scotland, as shown by *Oyston* v. *Aberdeen District Tramways Company* [1897] A.C. 111, in which the plaintiff claimed an interdict against (1) the heaping up of snow from the rails along the sides of the streets; (2) the scattering of salt upon the snow so as to form a noxious mixture injurious to horses. Lord Halsbury, L.C., pointed out that a private person could not have sued in England without proof of special damage to himself, although the facts disclosed a legal nuisance not sanctioned by the Tramway Acts. The House of Lords therefore held that the action was maintainable, and that the respondents were liable in spite of the default of the corporation in not clearing the roads.

The last-named case was distinguished in *City of Montreal* v. *Montreal Street Railway Company* [1903] A.C. 482, in which the appellants were bound (as the road authority) to remove the snow from curb to curb, including that falling from

the roofs and removed from the side walks. The respondents, however, had agreed to keep their track free from snow, and the Privy Council held that they could not be prevented from using electric sweepers for that purpose, and were not guilty of a nuisance in sweeping their snow to the sides of the streets. Lord Macnaghten pointed out (at p. 489) that winter snow is not permanent in Aberdeen, and is therefore a nuisance, whereas in Montreal it is no nuisance, and the inhabitants are permitted to throw it into the streets.

Practice Notes.

EXHIBITION SALESMEN AND HAWKERS' LICENCES.

THE fact that the law is no respecter of persons was recently emphasised at Alfreton, where Jacksons Stores, Ltd., and the manager of their local branch, were summoned for trading as "hawkers" without having in force a proper licence, contrary to the Hawkers Act, 1888, s. 6. The case for the Commissioners of Inland Revenue was that the defendants had held an exhibition of furniture at the Blackwell Hotel, where goods were exposed for sale, and that an unstamped receipt had been given to a buyer who took delivery of certain goods sold. It was pointed out that (*a*) if a company sold goods at exhibitions, it was necessary to obtain licences (at £2 each) for all the salesmen, whether they numbered a dozen or a hundred; (*b*) the consequences would be serious for small traders, if large companies were allowed to enter into competition without being properly licensed. The defendants' case was that the Act was never intended to apply to exhibitions, but they had decided to take out a hawker's licence in future, although the directors had been strongly against doing so. The chairman of the bench observed that many such exhibitions must have been held, without a hawker's licence, but the company was fined 20s. and ten guineas costs, and the manager was fined 5s., including costs. It is to be noted that s. 2 of the above Act creates an offence if any person travels to any place in which he does not usually carry on business, and there sells or exposes for sale any goods in any . . . room . . . or other place hired or used by him for that purpose.

BREACH OF CONTRACT AND WRONGFUL DISMISSAL.

A DECISION of interest at weekly servants was given by His Honour Judge Dowdall to the Liverpool County Court on the 27th May, 1930. A Mr. Rogerson, pork butcher, was the defendant in three cases brought by three former employees, Healy, Gallimore and Jones, each of whom alleged that he had been summarily dismissed on Monday, the 30th December, 1929, after requesting overtime pay in respect of additional hours worked during the Christmas rush, including a Sunday. That no reason was given for the dismissals. Employment was from Saturday to Saturday and the respective plaintiffs had received wages on Saturday, 28th December. Healy was employed as a driver salesman and also worked in the shop. Gallimore and Jones were shop assistants. Their respective wages were £1 7s., £2 5s. and 18s. a week. The plaintiffs in each case claimed to be entitled to one week's notice to run from the end of the current week's employment, namely, from Saturday in any week, and also the full current week's wages under contract or by way of damages for breach thereof through the refusal to allow them to continue in their respective employments or in the alternative one day's wages under a *quantum meruit*. In giving judgment in favour of each of the plaintiffs for two weeks' wages, his honour held that where an employee was dismissed without notice in the middle of a working week, he ought to receive two weeks' wages, one for the week, part of which he worked, and the other in lieu of notice. The learned judge stated that this had always been his practice in similar cases.

In Lighter Vein.

THE WEEK'S ANNIVERSARY.

On the 25th June, 1770, William Henry Ashurst was appointed a judge of the King's Bench. For twenty-nine years thereafter he retained his office, only resigning at the age of seventy-five.

During that time he maintained the highest reputation for impartiality as a judge, soundness as a lawyer, benevolence as a man and courtesy as a gentleman.

Nevertheless, long after all these solid and excellent qualities are forgotten, it will be remembered, thanks to an epigram attributed to Mr. (afterwards Lord) Erskine, that he was lean of countenance:—

"Judge Ashurst with his lantern jaws,
Throws light upon our English laws."

A "BIGAMOUS" CHANCELLOR.

Already this term the newspapers have found three separate occasions to "feature" McCardie, J.—his brilliant statement of the law of husband and wife, his exhortation to counsel and solicitors to work for greater efficiency in litigation, and, lastly, his reflections on wedding receptions when he recalled the press report which erroneously imputed matrimony to him.

The mistake recalls the more unkind rumour which pursued Lord Chancellor Cowper—that he had married two wives at a time.

He was known among the Tories as "Will Bigamy," and so persistent was the report that Voltaire wrote in his *Dictionnaire Philosophique*: "It is well known in England and it would be vain to deny that the Chancellor Cowper married two wives who lived together in his house in singular harmony which did credit to all three."

TWO OR ONE.

The judgment of McCardie, J., on the law of husband and wife may result in a statutory reorganisation of the law relating to domestic relations. Wherefore we should pray without ceasing that when the Lords of Parliament and the faithful Commons come to settle the emancipation of man they may not hand over to His Majesty's judges a bundle of half-digested ambiguities and slovenly drafting.

With regard to matrimonial unity, Maule, J., said long ago: "People talk about a man and his wife being one. It is all nonsense. I don't believe that under the most favourable circumstances they can be considered less than two. For instance, if a man murders his wife, did anybody hear of his having committed suicide?"

THE JUDGE AT THE PLAY.

The only occasion on which this judge is reported to have wept was at the "Beggar's Opera," when Macheath got his reprieve.

If any man of law has hitherto failed or neglected to hear Mr. Gay's pleasant jibes at the profession as it was in the eighteenth century, he should have witnessed the final farewell performance at Hammersmith last week.

Brevity had demanded some cuts in the original; it is a pity that Macheath's song before trial (to the tune of "Bonnie Dundee") was one of them:—

"The charge is prepared; the lawyers are met
The Judges all rang'd (a terrible show)!

THE COURT JESTER.

Saturday, the 21st June, recalled to mind a joke at the expense of a condemned man in the worst traditions of the worst criminal courts.

Lord Norbury, Chief Justice of Ireland in the time of O'Connell, sentenced a prisoner to death one 20th June. "Ah, my lord, give me a long day," pleaded the man. "Your wish is granted," replied the judge. "I give you till to-morrow—the longest day in the year."

POINTS IN PRACTICE.

Questions from Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to The Assistant Editor, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Damage to Cellar by Water.

Q. 1941. A is sub-tenant of the cellar of a warehouse. The owners of the building let the whole to a tenant who sub-let the cellar to A. A stores cotton cloth piece goods in the cellar and this cloth was damaged by water on two occasions. On the first occasion it was ascertained that the water had come from a burst pipe. The pipe was the one which connected the main to the tap in the cellar and the burst occurred under the footpath a few inches from the outside of the cellar wall, and the water evidently percolated through the wall into the cellar The corporation workmen were sent for and dug a hole and ascertained where the burst was, and said it was not a matter which concerned them, and A had the burst mended by his own plumber. In the second case the water flowed over the footpath down the steps of the cellar it being ascertained that a grid in the roadway was choked and did not properly drain the surface water in the gutter. Has A a claim in either or both cases against (1) his immediate landlord; (2) the owner of the building; (3) the corporation? A has a short tenancy agreement with his immediate landlord which does not contain any relevant covenants. No notice of want of repair was given.

A. The facts are similar to those in *Carstairs* v. *Taylor* (1871), L.R. 6 Ex. 217, except that in that case the water had escaped through a hole gnawed by a rat. It was held that the landlord was not liable, either on implied contract, or under the rule in *Ryland* v. *Fletcher*, to which there are two exceptions, viz., Act of God and *vis major*. In *Rickards* v. *Lothian* [1913] A.C. 263, it was similarly held that the landlord was not liable for the overflow of a basin on the top floor, which had been maliciously stopped up by a third person. In the first case, A has, therefore, no claim against either his immediate landlord or the owner of the building, and the corporation are also not responsible, as the burst apparently occurred on private property. In the second case A has no claim against either his immediate landlord or the owner of the building, as the burst occurred on the highway. The corporation are also not liable, however, if the choking of the grid was due to a non-feasance, viz., the failure or omission to perform some act which there is an obligation to carry out. The corporation will be liable, however, if the choking of the grid is due to a mis-feasance, viz., the improper performance of some lawful act.

The Doctrine of Relation Back.

Q. 1942. A issued against B a specially endorsed writ for a considerable sum and obtained judgment in default of appearance on the 16th July, 1929. B did not comply with the judgment and a writ of *fi fa* was issued on the 22nd July. On the 26th of July B paid to A's solicitor £20 on account of the judgment debt and costs, whereupon A's solicitor instructed the sheriff to withdraw from possession on the condition that B paid certain instalments. On 30th July a further £20 was paid. On 1st August a further sum of £10, and up to 6th September a further £5 in small amounts, making in all £55. B made default in the arrangement, and thereupon A's solicitor instructed the sheriff to re-enter on 28th October, and execution was re-levied early in November, and possession maintained until a receiving order was made on 23rd November. The Trustee in Bankruptcy now claims the whole of the moneys referred to above as being the benefit of the execution within s. 40, and relies on *Re Ford, ex parte O. R.*, 1 Q.B.D. 1900, p. 264. A's solicitor, on the other hand, contends that s. 37, as to relation back, is not affected by s. 40, and finds his view supported by the judgment of Astbury, J., *In re Fairley*, Ch. 1922 2, p. 791, and particularly the last paragraph, p. 795. Is A entitled to retain the money or is the trustee's contention correct?

A. The above facts raise a question which is uncovered by authority, as, although it also arose in *In re Fairley* (*supra*), it was not fully argued and the court decided the case on another point. See the second paragraph of the judgment of the present Lord Justice Lawrence, at p. 800. The judgment of Mr. Justice Astbury, referred to in the question, implies that there must be some limitation of the period over which the trustee can claim repayment from the creditor, and the opinion is given that this period is the three months specified in s. 37. A's solicitor's contention that s. 37 is not affected by s. 40 appears to be unsupported by authority, and the opinion is given that the two should be read together. The result is that the creditor can retain the £50 paid before the 23rd August, but the trustee is entitled to the £5 paid subsequently.

Notice to Quit to Statutory Tenant.

Q. 1943. A client became entitled to a small freehold house last year under the will of his father upon the death of the widow, who was tenant for life, and the formal assent has been completed and the property handed over to the son. The house was let by the father to a tenant under a written tenancy agreement for three years from the 24th June, 1918, at a rent of £28 per annum, payable quarterly, and the agreement contained the usual short form of proviso for re-entry on (*inter alia*) rent being in arrear for twenty-one days. The rent being paid when client took over the property was £39 4s., which represents the previous rent with the full 40 per cent. increase under the Rent Restrictions Act, and there was at that time some rent in arrear. Since then the tenant has become further in arrear and owes about 4½ months' rent to the March quarter. Our client desires to obtain possession of the property if possible as the rent is ridiculously low (a similar house adjoining lets decontrolled at £91), or at all events to obtain an order for possession in default of payment of the rent punctually. We are doubtful as to the nature of the proceedings to be taken under s. 138 of the County Courts Act, 1888—service must be proved of a notice to quit or its equivalent, the statutory notice of increase, so as to prove the determination of the original tenancy and that the tenant is a statutory tenant only. Exhaustive enquiries have been made, but it appears that the father himself served the statutory notice and no copy was kept, or if kept has been destroyed. We presume the only safe notice we can give now upon which subsequently to issue process would be a six months notice expiring at Midsummer, 1931, the anniversary of the original tenancy, as to serve a shorter valid notice it would again be necessary to prove the existence of a statutory tenancy. There are two bars to proceedings under s. 139: first, that at the moment there is not six months' rent in arrear, and second, that we are not prepared to prove the non-existence on the property of a sufficient distress, and our client does not wish to apply for leave to distrain.

A. The above reasoning is correct, as the fact of the tenant holding over (after the expiration of the three years' tenancy agreement) created an annual tenancy. The quarterly payment of rent would not suffice to create a quarterly tenancy, and therefore not less than a year's notice should be served, to expire at Midsummer, 1931.

Correspondence.

The Law Society's Bill.

Sir,—I have read the draft Bill to amend the Solicitors Acts and the explanatory memorandum.

I cannot congratulate the Law Society on the draftsmanship of the latter document, and it seems to me to have been expecially drawn for the purpose of confusing the mind of the casual reader with regard to the Society's position.

Having stated that the Society possesses certain statutory functions as to all solicitors it goes on to imply, which is not correct, that because out of fifteen thousand solicitors some five thousand are not members of the Society, therefore their statutory functions do not apply to them. This, as the Society well knows, is not correct, and it is a great pity in a public document of this kind that such inferences should be permitted to be drawn.

In the next paragraph the document states "The Public seem to consider that The Law Society is responsible for all Solicitors but so long as Membership is voluntary this is not correct."

So far as I know, the public do not consider and never have considered that The Law Society is responsible for all solicitors, if by that is meant that if a solicitor makes a defalcation The Law Society should make good the loss.

No one has ever been so foolish as to suggest such a thing, and the value of the document as an explanation is vastly diminished by such a careless and incorrect allegation as this. It then goes on to say "that so long as Membership is voluntary this (that is the responsibility) is not correct, and it would not be right that the Law Society should make provision for hardships which may be caused for the most part by Solicitors who are not members of the Law Society, and therefore not subject to the discipline to which Members necessarily subject themselves."

What the document means by this it is difficult to comprehend.

The suggestion that defalcations are only made by non-members of the Society is surely not true, and it is equally not true to say that non-members are not subject to a discipline to which Members themselves are liable.

The next paragraphs are simply appalling in their laxity as there has never been a suggestion that the burden of relieving cases of hardship should fall upon members of the Society or upon "the very persons who at present voluntarily shoulder managing the interests of all Solicitors."

Then, finally, with regard to the next paragraph, which speaks of a "fund for the relief of distress as above indicated," it is evident that in the Society's hurry to bring in non-members they have omitted to consider what the meaning of the words "relief of distress" is intended to convey.

I believe that a few years ago a solicitor was guilty of robbing his client of between three and four hundred thousand pounds in consequence of which the client had to sell his ancestral home, library and effects, and suffered great distress for the rest of his life.

What does the Society say they would do in a case of this kind?

I have been in practice for over fifty years, during most of which time I was a member of The Law Society, but having waited in vain for it to perform some practical acts of protection for the younger practitioner I left it. All that it has effected has been a misdirected energy and serious financial loss in the matter of education. Articled clerks are now compelled to spend their money in attending lectures and classes, and The Law Society is increasingly in debt in keeping up this educational farce, and with what result. The examination questions for the intermediate and final are no more severe than they were when I passed my examinations, nor is the range of legal education higher amongst articled clerks and young solicitors than it was fifty years ago.

During that period we have seen The Law Society, a self-elected and co-opted body of very respectable but quite impracticable people, standing idle whilst estate agents, accountants, secretaries, income tax specialists and others are constantly depriving solicitors of what they imagined were their own particular privileged opportunities of professional work.

Accountants, income tax specialists and others are now insisting upon their right to obtain the opinions of counsel without the intervention of solicitors. Accountants are claiming their right to attend in chambers in matters of account, debenture-holders' actions, and so on, and the only protection solicitors have is as to whether the officials in the departments are or are not alive to the importance of protecting the rights of solicitors by compelling those accountants who do this to bring their solicitors with them.

The state of the profession to-day is, in consequence of the gross mismanagement and incompetence of The Law Society, such as to make it not worth while for any young man to enter it, and if evidence were required to justify these observations it would be the grossly unfair Bill which is to be brought forward, and the extremely astute and uncandid memorandum which purports to explain it.

I hope some of the young solicitors who attend the Annual General Meeting will not hesitate to express themselves as strongly as I have done on the matter, and as for those solicitors who see no advantage in joining the Society it is to be hoped they will be able to induce their representatives in Parliament to throw out a Bill, which, in my opinion, should never have been brought forward.

It is a reflection upon the honesty of the general body of solicitors in the country and it would have been more worthy of The Law Society to have indicated, as the fact is, that having regard to the many millions of money passing through the hands of solicitors in the year, the defalcations of this great and honourable profession amount to an infinitesimal and derisory fraction of the amount of them.

It is an unworthy Bill and an insult to a worthy profession, whose rights and interests never have been in my fifty years' experience properly and suitably protected by its Council.

I enclose my card.

SOLICITOR OF OVER FIFTY YEARS' STANDING.

24th June.

The Solicitors Bill, 1930.

Sir,—May I crave a small piece of your paper for the purpose of calling the attention of non-practising solicitors to the provisions of the Solicitors Bill, 1930, now being promoted in Parliament by The Law Society. This Bill, which has for its object the greater control of solicitors, provides (s. 1 (1)), that every person who is now or at any time hereafter shall be entered on the roll of solicitors shall by virtue thereof become a member of the Society. The section is intended to cover, and does cover, not only practising solicitors, but those who do not practise, if, as is generally the case, they are still on the roll of solicitors. Apparently, also, it includes dead solicitors, for, if I mistake not, there is no procedure available for the purpose of removing solicitors' names from the roll, save in the two cases of an application by The Law Society for misconduct, and an application by the solicitor himself.

The inclusion of non-practising solicitors as members of the Society would not be of any great importance if they could resign their membership, but although, to-day, a member can take this course whenever he pleases, it is quite clear that when the Bill above mentioned becomes law and the bye-laws and regulations of The Law Society are amended in accordance therewith, the only method by means of which a solicitor can cease to be a member of the Society and escape liability for the subscriptions levied in consequence, will be for him to have his name removed from the roll.

The present is, I think, a favourable opportunity for pressing upon The Law Society the need of amending the law as to striking solicitors off the roll, so far as applications by solicitors themselves are concerned. At present the procedure is cumbersome and inquisitorial, and culminates in an advertisement in the *London Gazette*, the form of which leaves much to the imagination; in fact I have heard it said that a solicitor who takes this course has probably committed an offence which has been condoned by his retiring from the profession. I suggest that the advertising of an order of this description should be dispensed with, and that the statute dealing with the matter (9 & 10 Geo. 5, c. 56, s. 7 (1)) should be amended accordingly.

Perhaps some of your readers will favour us with their views on the above points.

Isle of Wight. OBSERVER.
21st June.

[We are glad to publish our correspondent's criticisms without identifying ourselves with them and shall be glad to publish the views of other readers, the subject being one which, we think, should be freely discussed.—ED., *Sol. J.*]

Reviews.

The Law relating to Public Libraries in England and Wales. By ARTHUR R. HEWITT, Assistant Librarian of the Honourable Society of the Middle Temple, member of the Library Association: With a Foreword by His Honour Judge Sir ALFRED TOBIN, K.C. 1930. London: Eyre and Spottiswoode (Publishers) Limited. 10s. 6d. net.

Struck by a passage in the report issued in 1927 relating to public libraries in England and Wales where it was said that "each successive Act has effected modifications or repeals in earlier Acts, and important provisions have found their way into an obscure statutory Rule and Order, so that it is a matter of great difficulty to find out, except after considerable research, the precise state of the law in regard to many matters of importance," Mr. Arthur R. Hewitt, who is the Assistant Librarian of the Middle Temple, decided to undertake the task of collecting and annotating the whole of the statutes concerned with public libraries and publish them in a convenient form. The result of his labours is seen in this admirably arranged and tastefully produced volume. To librarians, library committees and all others specially interested in the subject, the work should prove invaluable. In Part I, the Acts, beginning with the Public Libraries Act, 1892, and concluding with the Act bearing the same title, of 1919, are printed in full, repealed sections being clearly indicated by italic type; in Part II the subsidiary legislation concerned with, *inter alia*, bye-laws, borrowing powers, audit, compulsory purchase of land and manorial documents, is reproduced and annotated; Part III deals with "Copyright Libraries"; and these are followed by a select bibliography of library law, model rules, and a draft code of bye-laws framed by the Library Association. The index, always an important feature in a work of this description, is full and accurate. Mr. Hewitt has added to the interest of his volume by reprinting the material sections of the Parochial Libraries Act, 1708, the quaint provisions of which are apt to provoke a smile, which was passed "for the better preservation of parochial libraries in that part of Great Britain called England." We heartily commend Mr. Hewitt's volume as an extremely handy compendium to all concerned with libraries and their administration.

Looking Back: Fugitive Writings and Sayings. By The Right Honourable ROBERT MUNRO, D.L., LL.D., now Lord ALNESS, Lord Justice Clerk of Scotland, formerly Lord Advocate of Scotland and Secretary for Scotland. Thomas Nelson and Sons Limited, London, Edinburgh, and New York. 10s. 6d. net.

Lord Alness, who is Lord Justice Clerk of Scotland, and, as such, President of the Second Division of the Court of Session, has found time, amid the pressure of his judicial duties, to collect into a volume numerous travel sketches, appreciations of notable men whom he has met and conversed with, and various addresses on public questions delivered by him when Secretary for Scotland, and, more recently, while holding his present office. All these reveal the width of his observation and sympathy, as well as the charm of his clear and scholarly style. A good many of the papers naturally make their most cogent appeal to Scottish readers, but there are others which will win appreciation beyond the limits of his native country. Legal readers will find much to attract them in the two addresses to the Glasgow Juridical Society, wherein he gave some excellent advice to students contemplating entry into the profession. Incidentally he counselled them, as a simple and inexpensive prescription for the preservation of health, to take plenty of walking exercise, telling them that he himself is in the habit of walking several miles each morning before taking his seat on the Bench, and, in summer at any rate—several miles in the afternoon as well. Another paper which will be read with a sympathetic interest is the glowing tribute paid to the memory of Lord Strathclyde, who is perhaps, better remembered as Lord Advocate Ure, and who wore himself out by his strenuous political labours in the House of Commons and in the constituencies before he went to the Bench as Lord President of the Court of Session. Testimony is borne by Lord Alness to Ure's skill and prodigious force as an advocate, particularly with a jury, mention being made of one case in which we are told that "his address simply swept the jury off their feet. They were slaves in the hands of a master. He played on them as a great musician plays upon an instrument." It is a full, as we have said, and generous tribute, but we would fain have had it longer. There is likewise a sympathetic notice of the late Lord Constable who passed away after a very few years on the Bench, and just as his judicial greatness was being more and more widely recognised. Altogether an extremely pleasant and companionable volume.

Books Received.

The Local Government Act, 1929. With full explanatory Notes, together with all relevant Statutes, Orders, Circulars and Memoranda, including the Poor Law Act, 1930, and the Public Assistance Order, 1930. A. TRUSTRAM EVE, B.A. (Oxon.), and F. A. MARTINEAU, M.A. (Cantab.), Barristers-at-law. pp. xlvi, 555 and (Index) lxvii. London: Charles Knight & Co. Limited.

A Catalogue of the Publications of Baillère, Tindall and Cox in Medicine and Science. (I) Medical, Dental and Nursing, (II) Veterinary Foods and Food Inspection, Botany and Agriculture, (III) Science and Miscellaneous, and (IV) Periodicals and Reports. May, 1930. London: 7 and 8, Henrietta-street, Covent-garden, W.C.2.

The Incorporated Accountants' Journal. Vol. XLI, No. 9. June, 1930. Annual subscription 12s. 6d. post free.

Settled Land Conveyancing. A. H. COSWAY. Crown 8vo. pp. ix and (with Index) 165. London: Effingham Wilson. 5s. net.

Mines Department—Regulations and Orders relating to Mines under the Coal Mines Act, 1911. 1929 Edition, including Orders up to 11th February, 1930. Royal 8vo. pp. vi and (with Index) 193. H.M. Stationery Office. 1s. net.

Covenants relating to Leases and Tenancy Agreements. J. C. ARNOLD, Barrister-at-Law. Demy 8vo. pp. xix, 123 and (Index) 10. 1903. London: Butterworth & Co. (Publishers) Ltd. 12s. 6d. net.

Notes of Cases.

Court of Appeal.

Lawrence *v.* Cassel.

Scrutton, Greer and Slesser, L.JJ. 29th April.

VENDOR AND PURCHASER—MERGER—DWELLING-HOUSE IN COURSE OF ERECTION—AGREEMENT TO SELL—AGREEMENT TO EXECUTE CERTAIN WORKS—CONVEYANCE OF PREMISES—WHETHER MERGER.

Appeal from an order of Swift, J., in an action tried without a jury at Manchester Assizes.

The defendant entered into a written agreement, dated the 20th January, 1928, to sell to the plaintiff a freehold plot of land together with a dwelling-house situate thereon which was then in course of erection, for the price stated in the agreement. The defendant agreed to complete the dwelling-house in accordance with certain plans and specifications, and to execute certain works and put in certain sanitary fittings. The purchase was to be complete within a certain time specified in the agreement. On the 10th May, 1928, the defendant executed a deed of conveyance of the premises in fee simple to the plaintiff. This conveyance did not mention the defendant's obligation under the earlier agreement to complete the building of the dwelling-house or to execute certain works in it. A few days later the plaintiff went into possession, but shortly afterwards he had to complain of defective builders' work in the house, and that his furniture was damaged owing to water coming in through the walls and windows. He brought an action against the defendant for breach of the agreement of the 20th January, 1928. He alleged that the work had not been carried out in a proper, efficient and workmanlike manner as provided by that agreement. He also alleged that the materials used were not fit and proper for the purpose, and that the terms and conditions of that agreement had not been carried out. The defendant denied liability and pleaded that all the terms and conditions, express or implied, of the agreement of the 20th January, 1928, had become merged in the deed of conveyance of the 10th May, 1928, and that therefore the agreement of 20th January was no longer enforceable. This contention was not accepted by Swift, J., who gave judgment for the plaintiff and awarded him £150 damages. The defendant appealed.

The COURT dismissed the appeal. The real question in the case was whether all the terms and conditions of the agreement of the 20th January were still binding on the defendant. The judgment of Swift, J., must be affirmed. Appeal dismissed.

COUNSEL: *Cyril Atkinson*, K.C., and *Lustgarten; Eastham*, K.C., and *Butlin*.

SOLICITORS: *Brooks, Hulme & Ruddin*, Manchester; *Charles Howard & Co.*, Manchester.

[Reported by T. W. MORGAN, Esq., Barrister-at-Law.]

City of London Corporation *v.* London County Council.

Scrutton, Greer and Slesser, L.JJ. 2nd June.

LOCAL GOVERNMENT—POOR LAW AUTHORITY—BOARD OF GUARDIANS — TRANSFER OF FUNCTIONS — "PARISH PROPERTY"—TRANSFER OF UNION PROPERTY TO COUNTY COUNCIL—SALE OF WORKHOUSE—PROCEEDS OF SALE—"PROPERTY ACQUIRED BY . . . GUARDIANS FOR THE PURPOSES OF . . . RELIEF OF THE POOR"—VESTING IN COUNTY COUNCIL—LOCAL GOVERNMENT ACT, 1929 (19 Geo. 5, c. 17), ss. 113, 115.

Appeal from a decision of Talbot, J.

The Local Government Act, 1929, transferred to the London County Council, on the appointed day, namely, 1st April, 1930, the functions, property and liabilities of the guardians of the City of London Union. At the date of the transfer there was in the hands of the guardians a sum of £177,316 11s. 5d. War Loan 5 per cent. Stock, being the proceeds of the sale of a workhouse at Homerton by the guardians in 1921 in pursuance of an order of the Minister of Health. The Minister had directed the guardians to invest the purchase money in War Loan Stock and stand possessed of the securities representing it on trust to pay the resulting interest into the common fund of the union. By s. 113, sub-s. (1), of the Act, subject to property and liabilities for which special provision was made in the Act, any property and liabilities held or incurred by or on behalf of a poor law authority was, on the appointed day, transferred to and vested in the county council. Special provision was made in s. 115 with regard to parish property held by the guardians, including the proceeds of sale of parish property and any securities in which those proceeds had been invested. Such property, by s. 115, would in the case of the City of London guardians vest in the City of London Corporation on the appointed day. By sub-s. (6) of s. 115 "parish property" for the purposes of s. 115 was defined as "any property the rents and profits of which are applicable or, if the property were let, would be applicable to the general benefit of one or more parishes, or the ratepayers, parishioners or inhabitants thereof, but does not include . . . (*b*) property acquired by a board of guardians for the purposes of these functions in the relief of the poor." Talbot, J., held, on a special case, that the War Loan Stock in question was not "parish property" within s. 115 of the Act of 1929, but was, on the appointed day, transferred to and vested in the London County Council. The City of London Corporation appealed.

The COURT dismissed the appeal, holding that the property in the War Loan Stock was not "parish property" within s. 115, sub-s. (6), of the Local Government Act, 1929, and it was not property for which special provision was made within the meaning of s. 113 of the Act of 1929; and that it was transferred by the Act to the London County Council for the benefit of the whole area which the London County Council had the duty of administering. Appeal dismissed.

COUNSEL: *R. M. Montgomery*, K.C., *The Hon. Stafford Cripps*, K.C., and *S. G. Turner*, for the appellants; *Wilfrid Greene*, K.C., and *J. H. Stamp*, for the respondents.

SOLICITORS: *The City Solicitor*, for the appellants; *S. A. R. Preston Hillary*, for the respondents.

[Reported by T. W. MORGAN, Esq., Barrister-at-Law.]

High Court—Chancery Division.

In re Cockell: Jackson *v.* Attorney-General.

Clauson, J. 17th June.

EXECUTOR—RIGHT OF RETAINER—PRIORITY OF CROWN—ADMINISTRATION OF ESTATES ACT, 1925, ss. 34, 57—BANKRUPTCY ACT, 1914, s. 33 (1) (*a*).

This was an originating summons taken out by Mrs. E. E. Jackson, widow, as the sole executrix and universal legatee under the will of the late N. A. L. Cockell to have it determined whether the right of retainer for debts owing to her by the testator might be exercised against the Crown and in priority to the Crown's preferential claim for income tax under s. 33 (1) (*a*) of the Bankruptcy Act, 1914, and s. 34 of the Administration of Estates Act, 1925. The will was dated 5th June, 1919, and the testator died on 19th June, 1929, the value of the estate being about £1,000, but the debts were far larger than the value of the estate. The applicant had a claim against the estate for the sum of £1,000, and the Crown claimed to be a preferential creditor for a sum due in respect of income tax and super-tax.

CLAUSON, J., in giving judgment, said the question was whether the plaintiff had in respect of her claim for £1,000 a right to retain it out of the assets of the testator in priority to the preferential debts due to the Crown, and in considering the question it was necessary to have regard to the Administration of Estates Act, 1925, by s. 57 of which the Crown was

made subject to the provisions of the Act, and its advantageous position at common law with regard to various claims was now superseded by the provisions of the Act. By Pt. I of Sched. I, rules are laid down for the administration of insolvent estates, and s. 34 (2) had the effect of extending the right of retainer to equitable as well as legal estates, and nothing in the Act was to affect the right of retainer which remained as it was before except so far as it was enlarged. An executor's right of retainer was therefore to operate with respect to the whole of the assets, and accordingly the plaintiff's right of retainer could be exercised against the Crown and in priority to the Crown's preferential claim for income tax.

COUNSEL: *F. D. Morton*, K.C., and *N. Daynes*; *J. H. Stamp*.

SOLICITORS: *Keene, Marsland, Bryden & Besant*; *Solicitor of Inland Revenue*.

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Revenue Officer for Wimbledon *v.* Assessment Committee for Surrey North-Eastern Assessment Area; Rating Authority for Borough of Wimbledon, and J.C.M. Kerslake (Occupier).

Avory, J., Talbot and Finlay, JJ. 21st May.

RATING—DE-RATING—BAKEHOUSE—RETAIL TRADE—NOT INDUSTRIAL HEREDITAMENT—RATING AND VALUATION (APPORTIONMENT) ACT, 1928, 18 & 19 Geo. 5, c. 44.

Case stated against a decision of the Surrey (North-eastern Assessment Area) Assessment Committee. On the 10th June, 1929, the respondent assessment committee heard an objection by J. C. M. Kerslake to the exclusion from the draft special list for the Borough of Wimbledon as a non-industrial hereditament of his premises at 40, High-street, Wimbledon, being a baker's and confectioner's shop with living rooms over and a bakehouse in the rear. The net annual value of the premises was £138. The assessment committee decided that the hereditament should be entered in the special list, and they apportioned the user as to £27 industrial and £111 non-industrial. The revenue officer now appealed against that decision. The shop on the premises was used for the retail sale of bread. That part of the hereditament which comprised the bakehouse and ovens was physically capable of a separate occupation, and the goods manufactured consisted of bread, cakes and chocolates. The hereditament was registered as a factory under the Factory and Workshop Acts.

AVORY, J., said that it was only necessary to refer to the appellant's contention by which it was argued that the premises were primarily occupied and used for the purposes of a retail shop, because he (his lordship) was satisfied that that contention was sound. If, however, it had been necessary to proceed beyond that, he would have held that the premises were primarily occupied and used for a combination of the purposes of the retail sale of bread and of other commodities, and of a dwelling-house. When the hereditament in the present case was looked at as a whole it was, in his opinion, clearly being used and occupied primarily for the purpose of a retail shop.

TALBOT, J., said that the question was how the premises were occupied and used. In interpreting "purpose" regard must be paid, not only to the way in which the premises were used, but also to the reason why they were so used. It was impossible better to prove that a factory was "primarily occupied and used . . . for the purposes of a retail shop" than by showing that the whole of its produce was sold by retail in a shop.

FINLAY, J., concurred.

COUNSEL: *The Attorney-General* (*Sir William Jowitt*, K.C.) and *Wilfrid Lewis*, for the appellant; *Konstam*, K.C., and *Michael Rowe*, for J. C. M. Kerslake.

SOLICITORS: *The Treasury Solicitor*; *Neve, Beck & Crane*.

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Legal Parables.

LV.

The Sad Experience of the Candid Advocate.

THERE was once a truthful solicitor (he was quite young), who was determined to show that good advocacy was compatible with telling the whole truth always. It is true that he did not often get the same client twice, but he didn't mind, because he said he (and they) suffered in the cause of truth, and he said that gradually the bench would realise it could trust him and so he would gain a position for himself.

He was much encouraged one day by hearing a Great Man at the Bar telling a judge that he would be quite candid with him and conceal nothing. The Great Man made a clean breast of his client's discreditable past, followed by a moving appeal, and the judge thanked him courteously for his assistance and let off his client.

This, soliloquised the truthful solicitor, confirms me in my theory. I have, perhaps, been a little too diffident, even apologetic in the past, and that is why magistrates have given all too little effect to my pleas. I will be bolder, blunter, and withal more fervent.

So the next time he imitated (or thought he did) the Great Man's style. He was more than usually candid and admitted more even than his client had told him. Then he made his confident appeal for clemency, based on his client's frankness and manliness in owning up to everything.

The bench listened attentively, in silence. Then the chairman observed that it was bad enough to have criminals, it was worse to have impudent ones; and to have them represented by advocates who seemed to take pride in their criminality, made it difficult for the bench to contain its indignation. The bench regretted its inability to award more than the maximum term of imprisonment, which was absurdly low.

The truthful solicitor now devotes himself entirely to conveyancing.

Obituary.

SIR MONTAGUE LUSH.

The Right Hon. Sir Montague Lush, formerly a Judge of the Court of King's Bench, died on Sunday last, the 22nd June, at his residence at Stanmore, at the age of seventy-seven. Sir Montague Lush was the son of one of the most able lawyers of his day—The Right Hon. Sir Robert Lush, Judge of the Queen's Bench, and afterwards Lord Justice of Appeal. He went to Westminster School and then to Trinity Hall, Cambridge, of which he was elected an Honorary Fellow in 1911. Called by Gray's Inn, of which his father was a Bencher, in 1879, he went the North Eastern Circuit. He was a sound lawyer and a prodigious worker, and acquired a substantial practice both on circuit and in town. An excellent work, "Lush on Husband and Wife," enhanced his reputation to a great extent whilst he gained a great name as a cross-examiner. Taking silk in 1902—after twenty-three years at the Bar—he was elevated to the Bench eight years later. As a judge he was always calm and courteous, and certainly displayed a profound knowledge of law. His judicial ignorance was on a par with that of the judge who once asked "Who is Lottie Collins?" and he caused considerable merriment on one occasion by asking the meaning of the word "lingerie" and on another by asking "What is a jumper?" He presided for ten years with great ability over the Railway and Canal Commission, and on his retirement from the Bench in 1925 was sworn of the Privy Council. His principal pastimes were shooting and fishing, to which he later added golf.

HIS HONOUR ALAN MACPHERSON.

His Honour Alan Macpherson, late Judge of County Courts, passed away at Cheltenham on Monday last at the age of

seventy-three. On leaving Winchester he went up to Exeter College, Oxford, where he took honours in classics and in law, was called by Lincoln's Inn in 1881 and went the South-Eastern Circuit. He was appointed Judge of County Court Circuit (Derby) No. 19 in 1912, and from there transferred to Circuit No. 53 (Gloucester) in 1920, resigning at the end of 1929.

MR. C. C. MACONOCHIE, K.C.

Mr. Charles Cornelius Maconochie, C.B.E., K.C., died at Avontoun, Linlithgow, on Sunday last, aged seventy-eight. He went to Winchester in 1864, and subsequently took his degree at Edinburgh University. He was admitted an advocate of the Scots Bar in 1876, and in 1889 appointed Advocate Depute by the late Lord Robertson, serving under him and his two successors. In 1896 he was appointed Sheriff-Substitute of the Lothians and Peebles, and promoted Sheriff in 1904 when he took silk. He was made a Companion of the Most Excellent Order of the British Empire, when he retired in 1918. H.

Solicitors Bill, 1930.

An Act to Amend the Solicitors Acts.

Be it enacted etc.

1. (1) Every person whose name is now or at any time hereafter shall be entered on the Roll of Solicitors shall by virtue thereof become a member of the Society.

(2) The following section shall be substituted for section 11 of the Solicitors Act, 1888:—

"On production of the admission signed by the Master of the Rolls and on payment to the Society of a fee not exceeding £5 and also of such annual subscription or proportion thereof as may from time to time be fixed by the Council in accordance with the Bye-laws of the Society it shall be the duty of the Society as Registrar to cause the name of the person admitted to be entered on the Roll of Solicitors."

(3) Section 16 of the Solicitors Act, 1888 (which authorises the registrar of solicitors to refuse to issue certificates in certain cases) shall apply to every solicitor who applies for a fresh certificate or the renewal of a certificate to practise without having paid the annual subscription for the current year or any fine which shall have been imposed upon him by the Committee.

(4) A solicitor who is struck off the Roll of Solicitors shall thereby cease to be a member of the Society.

(5) A solicitor shall be suspended from membership of the Society during any period that he may be suspended from practice.

(6) The Society shall before the appointed day make such amendments in the bye-laws and regulations of the Society as may be necessary in order to bring the same into conformity with the provisions of this Act.

2. (1) It shall be lawful for the Society to set apart from its annual income such sum or sums as the Council may from time to time determine for the purpose at the discretion of the Council of making such grants as may be deemed necessary or desirable to relieve persons who may suffer hardship as a result of the defaults of any solicitor and after any such sum shall have been so set aside as aforesaid it shall not be lawful to use the same for any other purpose. Such sum or sums shall be called "the Relief Fund."

(2) The Council with the concurrence of the Master of the Rolls may make and from time to time alter revoke and amend rules for the administration of the Relief Fund, including the investments of any amount not immediately required.

3. (1) The Society with the concurrence of the Master of the Rolls may make and from time to time alter revoke and amend rules for the professional conduct and discipline of solicitors; and, with the like concurrence, shall make and from time to time alter revoke and amend rules —

(A) as to the opening and keeping of banking accounts into which a solicitor shall pay the money of his clients and as to the conditions under which such accounts shall be operated;

(B) as to the keeping by a solicitor of accounts containing such particulars and information as to moneys received held or paid for or on account of clients as may be prescribed by such rules.

(2) The rules made under the provisions of this section may provide that any neglect or failure to keep such accounts or to observe or comply with any particular provision or provisions of any such rules shall be deemed to be professional misconduct.

(3) The Committee constituted under section 12 of the Solicitors Act, 1888, and section 4 of the Solicitors Act, 1919, in addition to or substitution for any other order that they may have authority to make may impose upon any solicitor guilty of professional misconduct a fine not exceeding £100. Any fine so imposed shall be paid to the Society and shall be held for the purposes of the Fund to be set apart under the provisions of section 2 hereof.

4. (1) This Act may be cited as the Solicitors Act, 1930.

(2) Expressions used in this Act shall have the same meaning as in the Solicitors Acts, 1839 to 1922, and those Acts together with this Act may be cited as the Solicitors Acts, 1839 to 1930.

(3) Section 1 sub-sections (1) to (5) of this Act shall come into force on the 1st day of November 1931 (in this Act referred to as "the appointed day").

18th June, 1930.

MEMORANDUM PREPARED BY MR. ROLAND BURROWS.

The Law Society is a chartered corporation of which rather over two-thirds of practising solicitors are members. It has by Statute the duty of acting as the Registrar of Solicitors. Further, the Statutory Committee exercising jurisdiction over solicitors is selected by the M.R. from members or former members of the Council.

As an association it offers various advantages and amenities to its members, and naturally the London members make greater use of the hall than country members, though probably on certain occasions country members find the hall of the greatest use to them. Membership is limited to solicitors and persons qualified to take out practising certificates, but has never been compulsory. Members, as such, do not have any part in the statutory functions of the Society or of the Discipline Committee.

The Society, however, is not thought of by the public in quite the same light. It is regarded in fact as a body representative of solicitors as a whole and exercising control over all solicitors. Even among those who know the position, the expression "to complain to The Law Society" includes making a formal charge against a solicitor before the Discipline Committee.

I have made these preliminary observations, not in order to give information as to the subject-matter, but for the purpose of stating my understanding of the general position so that the bearing of my subsequent observations can be seen in the light of my conceptions, whether accurate or inaccurate.

It is in my experience that the notion of The Law Society as a body representative of and controlling all solicitors is responsible, at least in some degree, for the widespread disappointment when defalcations of solicitors are not made good and the feeling that "something ought to be done about it." Members of the Society, though they may truly point out that it represents the responsible class of solicitors and has no responsibility for undesirable individuals, must realise that the public think of solicitors as a whole as forming one distinct class, and that, therefore, it would be of advantage to themselves to use every endeavour, not only to prevent solicitors being found to be dishonest, but also to minimise the hardship and suffering which such black sheep do inflict upon ignorant and trusting clients.

The governing principle to which I must have regard is the resolution passed by the Council on 9th May 1930:—

"This Council are of opinion that, with a view of promoting the discipline of the profession and the keeping of special accounts, steps should be taken to provide for the compulsory membership of the Society, and that, with that object, at the next meeting of the Society instructions should be requested to promote a Bill for that purpose and for the discipline of the profession and the keeping of special accounts."

This remedy has been preferred to the alternative proposal of a fund levied on all solicitors alike. The two suggestions seem to have little in common, but I assume that the underlying idea is to avoid the reluctance of the solicitor who conforms to a proper standard of conduct from feeling that he is being called upon to make good the delinquencies of others who do not and from whose failure to observe the same standard he has already suffered. If all become members, and therefore all pay subscriptions, he will pay no more, but the Society, having first defrayed the additional expenditure caused by the increase of membership, will thereby obtain funds from which grants can be made. It is true that, as such funds come from the general resources of the Society, they do in some measure fall upon him, but it is not apparent. It is similar

to the fact that the honest customers of a tradesman pay for the customers who do not pay, because prices are adjusted to cover the risk of bad debts, but no one considers the matter in that light. A levy on honest customers once a year to make up bad debts would be a proposition which could never be carried.

Compulsory membership can only be a practical solution if it can be effected by a simple and effective system. The persons who will be included are those who have not done what they can now do voluntarily, and the difficulties which would arise if it were possible for a solicitor to be compulsorily a member, but also to be in default in paying his subscription, would be such as to defeat the proposition. I think that the only possible method therefore is one which would prevent a man being a practising solicitor unless he were a member. Any legislative proposition therefore would involve two provisions: (1) that every person who is qualified and desires to be entered on the roll of solicitors shall pay a members' subscription as a condition of such entry and by such payment shall *ipso facto* become a member; (2) that the conditions of renewal of a practising certificate shall include the payment of the current member's subscription.

There is, I think, no inherent difficulty in framing such an enactment, but it is in my opinion convenient that the annual subscription shall become due at or shortly before the date for renewing a practising certificate, and that the period of grace shall expire at the same time as the period of grace for a certificate.

There are some further considerations which must be borne in mind. Nothing must be done to prevent a non-practising solicitor from continuing as a member of the Society, but the Society must have power to refuse to renew membership in such cases as entitle it to refuse to renew a certificate, and that membership shall be automatically determined or suspended in cases where a solicitor is struck off the rolls or suspended.

The consequent alteration of the bye-laws can be effected by the Society, though it might be desirable to direct by statute that such necessary alterations shall be carried out.

The above observations, I think, render it desirable that any Act to give effect to the resolution shall come into force on an appointed day, e.g., 1st November, 1931.

I have given much thought to the problem of the member who may come into existence as a result of such a change, viz., the man who is professionally upright but socially impossible. It would seem at first sight rather harsh to compel a man against his will to pay for advantages which are denied to him, but in view of bye-law 11, I do not think that the objection is valid. At present it is possible (though happily few occasions have yet arisen) for a member now to pay his subscription and yet forfeit some of the privileges of membership by his own misconduct. After all, some measure of social behaviour must be enforced in any civilised community, and a compulsory member would be penalised by reason of his own misconduct. The bye-law would, however, require modification, as the present procedure is too cumbrous except for cases which, as at present, hardly ever occur. The decision of the Council in such cases as may arise should be final. I imagine that, even in altered circumstances, most of the persons who would come under a ban would avoid it by abstaining from approaching the Society's premises. Expulsion from membership would of course become impossible.

An alternative, viz., to brand the offender in some distinctive manner, would be a remedy worse than the disease. To create a class of solicitors marked publicly as undesirable would not only attract to them a class of clients equally undesirable, but also create a stigma which some members of the public would be apt to use as abuse of all solicitors.

I therefore think that it would be practicable to draft an Act upon the following lines:—

(1) That every person who takes out a practising certificate for the first time shall, as a condition, pay the first subscription of a member of the Society, and thereby become a member upon the issue of such certificate.

(2) That it shall be a condition of the renewal of a practising certificate that the solicitor shall pay the current subscription.

(3) That membership shall be determined upon a solicitor being struck off the rolls.

(4) That membership shall be suspended during such period as a solicitor shall be suspended from practice.

(5) That such alterations in the bye-laws and regulations of the Society shall be made as are necessary as a consequence of such changes.

(6) That the Society shall have power to form a fund which shall be available at the sole discretion of the Society for the purpose of relieving cases of hardship caused by defalcations of solicitors. It is most important that no legal right to relief or assistance shall be created.

I now turn to some supplementary suggestions which may be added to such a measure, but the absence of which would not affect the object which I have hitherto discussed.

I.—Audit and Clients' Accounts.

I would suggest that the Society should be directed to make rules with the approval of the M.R. to secure—

(*a*) That solicitors shall keep separate accounts of clients' moneys and the conditions which shall govern such accounts. I mean by accounts banking accounts;

(*b*) That solicitors shall keep accounts containing such particulars and information as may be prescribed;

(*c*) That if the Council shall on any occasion think it necessary or desirable they shall have the right to nominate some competent person to examine, vouch and report upon any solicitor's accounts or some particular account;

(*d*) That failure to keep such accounts as may be prescribed may be treated as professional misconduct.

It would be possible to give the Discipline Committee power to fine up to a prescribed amount any solicitor committing a breach of any of the prescribed rules.

The advantage of taking power to make rules is that difficulties which emerge in practice can be removed by alteration of the rules without an amending Act. If the procedure for statutory rules and orders be followed in substance, Parliament should not be unduly disturbed, because then any M.P. could raise a discussion upon them before they become effective.

II.—I have considered also (*a*) compulsory membership of Provincial Societies and (*b*) under-cutting, but I regret being unable to make any practicable suggestion with regard to either of them.

Temple, 30th May, 1930. Roland Burrows.

Parliamentary News.

Progress of Bills.

House of Lords.

Third Parties (Rights against Insurers) Bill.
Read the Third Time and passed. [27th May.

Education (Scotland) Bill.
Read the First Time. [27th May.

Mental Treatment Bill. [H.L.]
Commons Amendments considered. [29th May.

Railways (Valuation for Rating) Bill.
Read the Third Time and returned to the Commons. [29th May.

Land Drainage (No. 2) Bill. [H.L.]
Read the Third Time and passed, and sent to the Commons. [3rd June.

Poor Prisoners Defence Bill.
In Committee. [4th June.

Illegitimate Children (Scotland) Bill.
Read a Second Time. [17th June.

Coal Mines Bill.
Consideration of Commons Reasons for disagreeing with Amendments. [24th June.

House of Commons.

Education (Scotland) Bill.
As amended (in the Standing Committee), considered.
Read a Second Time. [23rd May.

Small Landholders (Scotland) Acts (1866 to 1919) Amendment Bill.
As amended (in the Standing Committee), considered. [23rd May.

Education Bill.
Read a Second Time. [29th May.

Coal Mines Bill.
Lords Amendments considered. [4th June.

Clergy Pensions (Older Incumbents) Measure, 1930.
Royal Assent. [4th June.

Railways (Valuation for Rating) Bill.
Lords Amendments considered. [5th June.

Air Transport (Subsidy Agreements) Bill.
Read the Third Time and passed. [20th June.

Mental Treatment Bill. [H.L.]
Lords Amendments to Commons Amendments considered and agreed to. [20th June.

Third Parties (Rights against Insurers) Bill.
Lords Amendments considered and agreed to. [20th June.

Overseas Trade Bill.
Read the Third Time and passed. [20th June.

Workmen's Compensation (Silicosis) Bill [H.L.]
Read a Second Time. [20th June.
Road Traffic—Payment of Fines into the Exchequer.
Resolution reported and agreed to. [23rd June.
Employment Returns Bill.
Read a Second Time. [24th June.
Land Drainage (No. 2) Bill. [H.L.]
Read a Second Time. [24th June.
Finance Bill.
Further considered in Committee. [25th June.

House of Commons.

Questions to Ministers.

JURY SERVICE.

Lieut.-Colonel ACLAND-TROYTE asked the Home Secretary the number of local authorities which have forwarded him resolutions suggesting that borough, county and district councillors should be exempted from jury service; and whether he proposes to take any action in this matter.

Mr. CLYNES: The number is large, but I have not had time to ascertain it exactly. The matter is under consideration, but I am not able to encourage the hope of early legislation. [19th June.

INDECENT POSTCARDS.

Mr. CLYNES (in reply to Mr. DAY) said: The police have ample powers under the existing law to deal with the display for sale of postcards which are really indecent, and they would take action in regard to any case which came under their notice. There is no need for special instructions. If my hon. Friend has any information on this subject and will send it to me, I will see that it receives consideration. [19th June.

WOMEN POLICE.

Mr. CLYNES (in reply to Mr. DAY) said: I have received no recent report on the employment of women police. As regards the Metropolitan Police, the subject is being explored, but no decision has yet been reached. [19th June.

DEBT REDEMPTION (REPARATION LOAN RECEIPTS).

Sir B. FALLE asked the Chancellor of the Exchequer if he will state the method by which he proposes to utilise for debt repayment the cash proceeds resulting from the issue in Britain of the British portion of the Young plan reparations loan; whether he proposes to use it as a separate amount additional to the sum appearing in the 1930 Financial Statement as allocated for Sinking Fund purposes; and will the sum available be applied to the cancellation of funded debt or of floating debt.

THE CHANCELLOR OF THE EXCHEQUER (Mr. Philip Snowden): As I have previously stated, the share of Great Britain in the proceeds of the German Government International 5½ per cent. Loan, 1930, will be applied to debt redemption. At present I am not able to say definitely the precise form in which it will be applied, but I hope to be able to do so very shortly. [17th June.

LAND DRAINAGE BILL.

Dr. ADDISON (in reply to Lieut.-Colonel HENEAGE) said: (i) The following statement gives the total area of land in Great Britain in 1929 as revised by the Ordnance Survey Department in September, 1929:—

	Acres.
England	32,034,017
Wales	5,098,878
Scotland	19,069,007
Total, Great Britain ..	56,201,902

(ii) Following are the acreages of certain of the catchment areas proposed in the Land Drainage Bill:—

	Acres.
River Thames	2,462,434
River Great Ouse	2,048,944
River Trent	2,581,577
River Ouse (Yorkshire)	2,670,818
River Welland	386,741
River Witham	822,278
River Ancholme	152,384

[23rd June.

MONEYLENDERS' LICENCES.

Mr. PETHICK-LAWRENCE (in reply to Mr. DAY) said: The number of licences issued under the Moneylenders Act, 1927, during the financial year ended 31st March, 1930 (the latest convenient date for which statistics are available), was 3,759. [23rd June.

BUILDING SOCIETIES (ADVANCES).

Mr. CLYNES (in reply to Sir K. WOOD) said: The Chief Registrar of Friendly Societies informs me that the total amount advanced on mortgage by building societies from 1901 to 1929 was in round figures £607,000,000, and that the amounts advanced each year since 1918 are as follow:—

	£
1918	6,970,986
1919	15,840,961
1920	25,094,961
1921	19,673,408
1922	22,707,799
1923	32,015,720
1924	40,584,606
1925	49,822,473
1926	52,150,941
1927	55,886,903
*1927–1928	11,189,169
1928	58,664,684
1929	74,718,748

* Advances which are not included either for 1927 or 1928 owing to alteration of year end for which returns were abstracted from 31st December to 31st January. [23rd June.

SOLICITORS (FRAUDULENT CONVERSIONS).

Mr. PARKINSON (Lord of the Treasury), in reply to Sir JOHN FERGUSON, said: I have been asked to reply. My hon. and learned Friend has not as yet received any account of the proceedings at the meeting of the Provincial Law Societies on Friday last. He understands that the meeting of The Law Society at which the decision of the Provincial Law Societies will be considered will be held at an early date in July. He has not yet received any intimation of the course which The Law Society proposes to take. [23rd June.

Legal Notes and News.

Honours and Appointments.

Mr. GERALD BURKINSHAW, Assistant Solicitor in the office of Mr. William Hudson, Town Clerk, Watford, has been appointed an Assistant Solicitor in the office of Mr. F. E. Warbreck-Howell, Town Clerk of Manchester. Mr. Burkinshaw was admitted in 1928.

Mr. GEORGE STREDWICK, Solicitor, Bristol, has been appointed by the Lord Chancellor a Commissioner for Oaths. Mr. Stredwick was admitted in 1924.

The King has appointed Mr. GUY TRACEY WATTS (Attorney-General) to be a Member of the Legislative Council of the Bahama Islands.

The King has appointed Mr. PHILIP BERTIE PETRIDES (Puisne Judge of the Supreme Court of Nigeria) to be Chief Justice of the Supreme Court of the Colony of Mauritius.

The King has been pleased, on the recommendation of the Secretary of State for Scotland, to approve the appointment of Mr. DUNCAN MACGILLIVRAY, LL.D., to be one of the Commissioners for the purposes of the Educational Endowments (Scotland) Act, 1928.

The Corporation of the City of London have increased the salary of His Honour Judge SEWELL COOPER, Judge of the City of London and Mayor's Court, from £1,750 to £2,000 per annum.

The Newcastle-on-Tyne City Council have appointed Mr. A. M. OLIVER, M.A., O.B.E. (the Town Clerk) to be Public Assistance Officer.

The Isle of Wight County Council have appointed the Clerk to the County Council (Mr. JOHN DUFTON) to be Public Assistance Officer.

His Honour Judge CLEMENTS has been appointed Judge at the Maidstone County Court, in place of His Honour Judge SPENCER HOGG, who will in future preside at the Lambeth County Court.

The name of Mr. W. USHER, B.A., Solicitor (Cantab.), is included in the Honours List of Candidates for the Degree of Bachelor of Law of Cambridge University. Mr. Usher is Assistant Solicitor in the office of Mr. Henry Craven, O.B.E., Town Clerk of Sunderland.

Mr. R. H. HUDSON, solicitor, Tralee, has, on the recommendation of the Appointments Commissioners, been appointed Legal Adviser to the Tralee Urban District Council.

Mr. WILLIAM H. FOGERTY, Solicitor and Notary Public, Ennis, has been appointed a Commissioner of Deeds, &c., for New York State.

Mr. PHILIP LONGMORE, Solicitor, St. Albans, has been appointed Deputy-Clerk to the Hertfordshire County Council.

Mr. EDMUND LAWS, Deputy-Clerk to the Newton Abbot Rural District Council has been promoted to the Clerkship in succession to the late Mr. Frederick Horner.

JURORS' APOLOGY TO THE COURT.

Mr. Justice Horridge, on Thursday, remitted the two fines of £5 which he had imposed on two special jurors for being late earlier in the week. He said that on Tuesday two members of the jury were late in returning after the luncheon interval and as they offered no apology and gave no reason he was obliged to fine them. They had now written to him very proper letters and each had apologized to the court. It was absolutely necessary, to economize public time and that of the other jurors, that the jury should be punctual. The fines, which had been paid, would be remitted.

THE CORONERS' SOCIETY.

Mr. Ernest Hadow (Coroner for Central Warwickshire), was elected president of the Coroners' Society of England and Wales for the coming year at the annual meeting in London. Mr. Rutley Mowll (Kent) and Dr. Whitehouse (South-East London) were elected Vice-Presidents; Dr. Whitehouse, Hon. Treasurer; Sir Walter Schröder (Central London), and Mr. Danford Thomas (Tower of London), Hon. Secretaries.

NEW BENCHERS OF LINCOLN'S INN.

Mr. Henry Tindal Methold and Mr. Richard Henry Hodge have been elected Benchers of the Honourable Society of Lincoln's Inn in the places of the late Right Honourable Sir Matthew Ingle Joyce and the late Mr. Charles Grant Church respectively.

HENDON SEEKS MUNICIPAL STATUS.

The petitions presented by the Urban District Council of Hendon and the inhabitant householders applying for a charter of incorporation as a municipal borough will be considered by a Committee of the Privy Council on Monday, 14th July.

Major Graham Thomas Walters Olner, barrister-at-law, (or Graham), R.E. (retired), M.I.E.E., of Willowhaven Bungalow, Penton Hook, Staines, and Pump Court, Temple, E.C., left estate of the gross value of £1,327, with net personalty £734.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.	EMERGENCY ROTA.	APPEAL COURT No. 1.	GROUP I. Mr Justice EVE. Non-Witness.	Mr. Justice MAUGHAM. Witness. Part II.
Monday June 30	Mr. Jolly	Mr. More	Mr. Andrews	Mr. *Hicks Beach
Tuesday July 1	Hicks Beach	Ritchie	More	*Andrews
Wednesday 2	Blaker	Andrews	Hicks Beach	*More
Thursday.. 3	More	Jolly	Andrews	Hicks Beach
Friday 4	Ritchie	Hicks Beach	More	*Andrews
Saturday .. 5	Andrews	Blaker	Hicks Beach	More

DATE.	GROUP I. Mr. Justice BENNETT. Witness. Part I.	Mr. Justice CLAUSON. Witness. Part II.	GROUP II. Mr. Justice LUXMOORE. Witness. Part I.	Mr. Justice FARWELL. Non-Witness.
Monday June 30	Mr. More	Mr. *Ritchie	Mr. *Jolly	Mr. Blaker
Tuesday July 1	*Hicks Beach	*Blaker	Ritchie	Jolly
Wednesday 2	Andrews	*Jolly	*Blaker	Ritchie
Thursday.. 3	*More	Ritchie	Jolly	Blaker
Friday 4	Hicks Beach	Blaker	*Ritchie	Jolly
Saturday .. 5	Andrews	Jolly	Blaker	Ritchie

*The Registrar will be in Chambers on these days, and also on the days when the Courts are not sitting.

The LONG VACATION will commence on Friday, the 1st day of August, 1930, and terminate on Saturday, the 11th day of October, 1930, inclusive.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (1st May, 1930) 3%. Next London Stock Exchange Settlement Thursday, 10th July, 1930.

	Middle Price 25th June 1930.	Flat Interest Yield.	Approximate Yield with redemption.
English Government Securities.		£ s. d.	£ s. d.
Consols 4% 1957 or after	88	4 10 11	—
Consols 2½%	54⅞	4 11 4	—
War Loan 5% 1925-47	102⅞	4 17 4	—
War Loan 4½% 1925-45	98½	4 11 5	4 12 6
War Loan 4% (Tax free) 1929-42	101½	3 18 10	3 16 9
Funding 4% Loan 1960-90	89½	4 9 5	4 10 0
Victory 4% Loan (Available for Estate Duty at par) Average life 35 years	94¼	4 4 8	4 6 0
Conversion 5% Loan 1944-64	104½	4 15 11	4 15 0
Conversion 4½% Loan 1940-44	98½	4 11 5	4 13 0
Conversion 3½% Loan 1961	77⅛	4 10 4	—
Local Loans 3% Stock 1912 or after	64	4 13 9	—
Bank Stock	252½	4 15 1	—
India 4½% 1950-55	85	5 5 11	5 12 6
India 3½%	82xd	5 12 11	—
India 3%	53xd	5 15 2	—
Sudan 4½% 1939-73	96	4 13 9	4 14 6
Sudan 4% 1974	86	4 13 0	4 15 6
Transvaal Government 3% 1923-53 (Guaranteed by British Government, Estimated life 15 years.)	83½	3 11 10	4 2 3
Colonial Securities.			
Canada 3% 1938	89	3 7 5	4 13 3
Cape of Good Hope 4% 1916-36	95	4 4 3	4 19 0
Cape of Good Hope 3½% 1929-49	83	4 4 4	4 17 6
Ceylon 5% 1960-70 (First Dividend £2 5s., 1st August, 1930.)	103	4 17 1	4 16 9
Commonwealth of Australia 5% 1945-75	86	5 16 3	5 17 6
Gold Coast 4½% 1956	93	4 16 9	4 19 9
Jamaica 4½% 1941-71	93	4 16 9	4 17 9
Natal 4% 1937	95	4 4 3	4 16 9
New South Wales 4½% 1935-45	78½	5 14 8	6 15 0
New South Wales 5% 1945-65	86½	5 15 7	5 18 6
New Zealand 4½% 1945	96	4 13 9	4 17 6
New Zealand 5% 1946	100	5 0 0	5 0 0
Nigeria 5% 1950-60 (First Dividend £1 15s., 1st August, 1930.)	102	4 18 0	4 17 6
Queensland 5% 1940-60	84½	5 18 4	6 2 6
South Africa 5% 1945-75	99	5 1 0	5 1 0
South Australia 5% 1945-75	85⅛	5 17 0	5 18 6
Tasmania 5% 1945-75	88⅛	5 13 0	5 14 0
Victoria 5% 1945-75	85⅛	5 17 0	5 18 6
West Australia 5% 1945-75	86½	5 15 7	5 17 0
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corporation	63	4 15 3	—
Birmingham 5% 1946-56 (First Dividend £1 5s., 1st July, 1930.)	102	4 18 0	4 17 3
Cardiff 5% 1945-85	101	4 19 0	4 18 6
Croydon 3% 1940-60	71	4 4 6	4 16 9
Hastings 5% 1947-67 (First full half year's Dividend in October, 1930.)	102	4 18 0	4 16 6
Hull 3½% 1925-55	80	4 7 6	4 17 6
Liverpool 3½% Redeemable by agreement with holders or by purchase	74	4 14 7	—
London City 2½% Consolidated Stock after 1920 at option of Corporation	53	4 14 4	—
London City 3% Consolidated Stock after 1920 at option of Corporation	63	4 15 3	—
Manchester 3% on or after 1941	65	4 12 7	—
Metropolitan Water Board 3% "A" 1963-2003	65	4 12 7	—
Metropolitan Water Board 3% "B" 1934-2003	66	4 10 11	—
Middlesex C.C. 3½% 1927-47	85	4 2 4	4 16 0
Newcastle 3½% Irredeemable	72	4 17 3	—
Nottingham 3% Irredeemable	63	4 15 3	—
Stockton 5% 1946-66	100	5 0 0	5 0 0
Wolverhampton 5% 1946-56	101	4 19 0	4 18 9
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	81½	4 18 2	—
Gt. Western Rly. 5% Rent Charge	100	5 0 0	—
Gt. Western Rly. 5% Preference	95½	5 4 9	—
L. & N.E. Rly. 4% Debenture	76	5 5 3	—
L. & N.E. Rly. 4% 1st Guaranteed	71	5 12 8	—
L. & N.E. Rly. 4% 1st Preference	62	6 9 1	—
L. Mid. & Scot. Rly. 4% Debenture	79	5 1 3	—
L. Mid. & Scot. Rly. 4% Guaranteed	75½	5 6 0	—
L. Mid. & Scot. Rly. 4% Preference	67⅛	5 18 6	—
Southern Railway 4% Debenture	79	5 1 3	—
Southern Railway 5% Guaranteed	98	5 2 0	—
Southern Railway 5% Preference	89½	5 11 9	—

The Solicitors' Journal, 17th January, 1931. PRICE ONE SHILLING.

The Solicitors' Journal

VOLUME LXXIV—(Part II)

1930

JULY to DECEMBER.

LONDON:

PUBLISHED AT THE OFFICES OF THE SOLICITORS' JOURNAL,

29 BREAMS BUILDINGS, E.C.4.

1931.

GENERAL INDEX.

CURRENT TOPICS.

LEADING ARTICLES.

CRIMINAL LAW AND POLICE COURT PRACTICE.

CONVEYANCER'S DIARY.

LANDLORD AND TENANT NOTE-BOOK.

COUNTY COURT LETTER.

PRACTICE NOTES.

LEGAL PARABLES.

LEGAL FICTIONS.

OBITUARY.

CORRESPONDENCE.

REVIEWS.

PARLIAMENTARY NEWS.

SOCIETIES.

RULES AND ORDERS.

HONOURS AND APPOINTMENTS.

INSURANCE NOTES.

MISCELLANEOUS.

POINTS IN PRACTICE.

ANALYTICAL INDEX OF REPORTED CASES.

The Solicitors' Law Stationery Society, Limited, 102–107, Fetter Lane, London, E.C.4.